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AN
HISTORICAL ESSAY

ON THE
PRINCIPLES

OF
POLITICAL ASSOCIATIONS

IN
A STATE:

CHIEFLY DEDUCED FROM THE FRENCH, ENGLISH,
AND JEWISH HISTORIES:

WITH AN
APPLICATION OF THOSE PRINCIPLES;
IN A
COMPARATIVE VIEW OF THE ASSOCIATIONS
OF THE YEAR 1792, AND THAT RECENTLY
INSTITUTED BY THE *WHIG CLUB*.

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INTRODUCTION.

IN the Address to the SUBSCRIBERS to the ASSOCIATIONS against REPUBLICANS and LEVELLERS, prefixed to my "DEFENCE of the LETTER attributed to "MR. REEVES," the attack of it is treated as ultimately directed against those very numerous and respectable Bodies, to expose them to popular indignation; an effect which, if justly founded, it could not fail to produce. For if we be obliged to grant the justice of the accusation brought against him, they appear as connected with a Man, and (as his opponents further assert) with a Party, systematically employed to subvert the Liberties of this Country. Now the spirit of the FIRST ASSOCIATION, and its principles, it will be urged, will pervade all those formed in imitation of it: and the former must be totally determined, or at least strongly modified, by the spirit and principles of its founders,

WHEN

INTRODUCTION.

WHEN OPPOSITION thought it expedient to make use of the Statutes to which they gave the name of "the GRENVILLE and PITT Acts," to bring the mass of the People into action upon the stage of Government, and upon that occasion declared, by one of their Leaders, that they should be so brought forward; it became necessary to deprive the Associated Defenders of the Constitution of the great weight they possessed in the nation, from natural influence and from long-deserved respect and attachment; for the whole of this weight, they knew, would be fully exerted in opposition to their plan. Hence they were led, by a kind of political necessity, to the accusation of a Man, connected, by the relation explained above, with each of their distinct Bodies. And they indicated the consequences they meant to be drawn from it more fully, in a more direct attack upon them, by affirming, that "proofs exist, that the "Associations" (against Republicans and Levellers) "are part of a system of a deep-laid conspiracy to "establish a military despotism." Such were the measures they embraced in order to destroy the weight of the ASSOCIATIONS, and even to excite the populace against them.

Now the latter cannot act unless they be embodied. The declaration that they *should* act was cotemporary with the accusations here stated. Some mode in which they were to be embodied was therefore

INTRODUCTION.

fore probably then in contemplation; and it is likely the specific mode since recommended by the COMMITTEE of the WHIG CLUB. But to the success of any such plan, the accusation of Mr. REEVES and the ASSOCIATIONS was a most necessary preparatory measure. The object these attacks would serve could only be pointed out in the DEFENCE, generally; the outlines of the finished plan could not be examined before they were given to the Public: they are contained in the following paragraph, taken from the Newspapers of that time.

“ THE Committee of the Whig Club appointed
“ to prepare and announce the Form of *A General*
“ *Association of the People*, for the Repeal of the two
“ Statutes best known by the name of the Gren-
“ ville and Pitt Acts, met at the Shakspeare Tavern,
“ the Right Honourable Charles James Fox in the
“ Chair. A Declaration of the Motives of the
“ Club, in recommending this Association, was read
“ by Mr. Mackintosh, and unanimously approved
“ of. The Association, however, goes only to the
“ *single point* of the Repeal of those Laws, and the
“ Subscribers pledge themselves *only to prosecute that*
“ *sole object by every legal and peaceable means.*”

It is the Constitution of the Association, not the specific motives which led the Members to associate,

INTRODUCTION.

ciate, or the end they hold forth*, which will be examined on principles here to be investigated; on which it will be shown, that in its form it is highly dangerous, and that it is not sanctioned by the precedent of 1792.

* The object held out by them is, "to restore the Law of Treason to the state in which it stood before the meeting of Parliament last winter, or on the statute of 25. Edw. 3. c. 2." On this no remarks will be made in the body of the Tract, but some strictures upon it will be found in the APPENDIX, No. I.

AN
HISTORICAL ESSAY

&c. &c. &c.

SECTION I.

SOME GENERAL REMARKS ON ASSOCIATIONS
IN A STATE.

IN these Remarks will be considered, the cause and end of Associations, their organization, the compact entered into, and its limits and object.

THE Associations to be considered are such as are in a stricter sense popular; where the individuals associate as equals—not as heads of parties—or effective rulers of small districts of a kingdom.

IN Society at large, we may observe three degrees of union, distinctly differing in effect and appearance: the middle or average, which is the very health of public spirit; the weaker, which is its corruption, mostly preceding some fatal catastrophe; and the stronger, which is its fever: sometimes the struggle of a vigorous habit, to expel what is deleterious in the constitution; and sometimes terminating fatally.

A SOCIETY, or a part thereof, may be brought into this stronger degree of union by different means. Common principles will effect it, by the force of an increased

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reciprocal

reciprocal attraction of the individuals who compose it. The union is greater or less, as these are stronger or more remiss. A party may likewise be condensed into greater union, by external pressure: These two causes are generally seen acting in conjunction.

AT the commencement of such a union, its object may be defined by a formal contract, either in writing or by parole. Its numbers may be increased by the accession of others, who thus become virtually parties in the formal contract. Every society or party is here said to be associated, when a very strong and unusual degree of union takes place among them, from whichever of these sources it may have originated, and by whatever contract, tacit* or express, it may be combined.

THE object of an Association is to unite the action of the Associators in some mode: that of a "General Association of the People," or Mr. Fox's Association, is to bring a whole people into action, including the populace †.

A SINGLE association of the people is the most perfect union they can be brought into, but its force will be highly concentrated if it give obedience to a Directory at its head, which "the General Association of the People" possesses in the remainder, or jump, of the Whig Club, who have already assumed, over its future members,

- * Hence sudden insurrections, when the insurgents act together, and have something like a unity of object, are Associations. This object may be either abstract, as to establish the principles of equality; or specific, as to reduce the price of wheat.

† This follows from every definition this Party has given of the term *People*.

something

something superior to legislative power, in giving to the Association a constitution. If an individual of the Directory sway all the rest, for the present he is the effective Dictator of the Association. It is easy to name one whose political character and ability seem to secure him that ascendancy. The founders of this Association profess to attempt to make it universal ; if they succeed, they will at first concentrate the greatest possible force, under the greatest possible union,

BUT no single power in a State should operate without a counterpoise (at hand at least) to check it. The " General Association," by the very definition of the term, is a power which can have no such counterpoise.

It perhaps might be more accurate to say, that when any power puts a nation in motion in any direction, another should be always ready capable of deflecting its course upon occasion ; for it never, in fact, will continue long in a right track, except by the composition of motion, from two powers at least acting in different directions. Now the whole State must obey the impulse of an Association really general : it is a ship with every inch of canvas out, without a rudder, moved by the single impulse of the wind. Again, in all cases where such Associations exist, and have only great influence, the ship will not answer the helm, or its working will be hindered greatly by it ; and the sea, in which she is going at such times, is always full of rocks and quicksands.

WE have had in these latter Centuries only one species of despotism to fear, that of Kings ; we have now two, that of Kings and Demagogues. The usurpations of the latter are the more sanguinary and ferocious. When our

forefathers ſaw the former muſtering round them powers which might hereafter be abuſed, they loſt no time to impoſe ſalutary limits upon them. As much as the tyranny of the latter is more dreadful, with ſo much the more jealousy, its gathering forces together ought to be guarded againſt. We are not to ſhut our eyes upon the one, but we are intenſely to watch the other. Great is the danger of popularity on certain principles to the individual who poſſeſſes it. The man who is become a Demagogue, the loweſt fall from wiſdom, has often loſt his freedom of will to abſtain from crimes before he knows it : while he is the apparent conductor of his faction, he is already become their paſſive inſtrument ; and in ſuch a State the miſery of thoſe who are about to fall the victims of the atrocities called his, may be next to his own ; they will not be of that magnitude which entitles them to be rated as ſecond to it.

THERE are other modes in which a people or a party ſcattered over the face of a country may aſſociate. That embraced by the upper and middle claſſes in 1792 is an example of one of them, and the only one there is any preſent occaſion to conſider. They formed themſelves into local Aſſociations : the obligations they ſubſcribed varied according to the opinion of every meeting. No ſingle form was followed, to conſolidate theſe numerous and perfectly inſulated bodies into one : they all ſeemed to have a like object ; but there was nothing more in their conſtitutions to give them unity of action, unleſs we may ſuppoſe ſuch union could reſult from the correſpondence moſt of them maintained with the committee of the original Aſſociation, of which Mr. REEVES was the Chairman. The members of that Committee were the acknowledged heads of no party in the State—in this they
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are far less formidable than the Whig Club; and Mr. REEVES himself, with no pretensions to the higher or secondary posts of Government, and holding not even a seat in the House, to attach the members of these several bodies to him, by the dependencies of expectation, certainly has not the dangerous weight of their Leader. This Committee then had no power to draw the other Associations into an union of any kind, and no step to this end was taken by them among themselves.

THESE independent Associations, it is said, exceeded two thousand in number: they had all the union of two thousand individuals, inhabiting a district, in the state of equality; without an elective assembly, a senate of nobles, or single person to govern them: or of a cluster of two thousand independent republics, without an assembly of the States at their head, to give them that imperfect unity, of which such confederacies have, at certain periods, been seen for a time to keep up the external appearance.

In these Associations, the principle of union was not at all provided for in their original formation; in that which I shall denominate "the Association of Mr. Fox," because he is certainly its effective Head, we have seen the leading feature to be, the closest concentration of force, and *that* of the whole people. In this respect, therefore, the first measure is no precedent for the second.

It has been said in substance above, that the object of all Associations is to combine the subscribers for immediate action, or to be in readiness to act on occasion. By immediate action I understand acting in person, and not mediately or by deputy. Mr. REEVES and Mr. Fox have each addressed themselves to the people to form Associations.

sations. To compare their several plans in a second point of view, let the qualities of the immediate action of the people be now considered.

SECTION II.

ON THE ACTION OF THE PEOPLE.

WHEN the whole of the people, or a great part of them,* are associated, it is for some one purpose; but let that purpose be what it may, they will be bad agents therein. There is not a maxim in Montesquieu which has more truth or brilliancy in it than the following: "The people (collectively) have always too much action, or too little. Sometimes with a hundred thousand arms the multitude overthrows every thing; sometimes with a hundred thousand feet it creeps only like an insect*."

THIS difference of the effect of the action of the people must arise from the difference of the spirit by which they are actuated at such times; and this, again, must depend much upon the object which excited it. Now the object of these Associations is either the continuance of the present state of the members, or the acquisition of a better by their united force: and from this consideration we derive another division of Associations into Defensive and Offensive, and both conjointly.

* "Le peuple a toujours trop d'action, ou trop peu. Quelquefois avec cent mille bras il renverse tout; quelquefois avec cent mille pieds il ne va que comme les insectes. Esprit des Loix, Liv. ii. c. 2.

Hence

HENCE, as all Associations to gain what the members do not possess are Offensive, an Association to regain what they cease to possess is Offensive also. Its spirit, at least, will be equal in strength to that with which an acquisition of an object never possessed before, is pursued, and possibly more, as some degree of resentment may warm it. If the associators have been deprived of it by law, they contend for an illegal possession, or a legal right they possess not.

LET us now compare these two classes of Associations as to their effects, from the known qualities of human nature; and afterwards, from what History has given us upon the subject.

THE fear of losing what we already enjoy occupies the mind but very little. Hence Associations of parties formed upon a Defensive principle, are very different in the spirit which pervades them, and in their effects, from those formed on principles of acquisition, or Offensive Associations. The efforts men exert to continue as they are, partake greatly of the moderation of that frame of mind which gives birth to them—content in their present state: a sentiment which has not habitually all that force on our minds which it ought to have. On the other hand, there is no emotion which we indulge ourselves in with so little restraint, as the hope of a change of our state for the better; and the constancy of that indulgence is such, that men habituate themselves to it, until that passion has, in most minds, acquired a very distempered magnitude and force. This is the reason that when men form combinations in Civil Society to defend the good they enjoy, there is too much inertness in all their movements: but if the object of their formal union is something

something they wish to acquire, they are heated to a fervor which carries them far beyond the bounds of sobriety and expedience; and when a State is divided into two parties, the majority acting upon the first, and the minority upon the second principle, the latter has been too frequently able to overpower the former, with the better cause, and the apparent weight of influence on its side. Hence Mr. Hume, considering the collision of two such parties, says with great truth, "One furious enthusiast is able, by his active industry, to surmount the indolent efforts of many sober and reasonable antagonists *."

THEREFORE, these two kinds of Popular Associations, the Defensive and Offensive, fall under the two cases described by Montesquieu: in the first of which, the action of the people has too little energy; and in the last, overwhelms every thing in ruin. The original Association of Mr. REEVES, and all those afterwards formed upon the same plan, were Defensive, being to guard the Constitution against Republicans and Levellers; Mr. Fox's Association is Offensive, being against existing laws formed for that purpose †.

I SHALL now consider more particularly the nature of these two species of Associations, chiefly deducing my conclusions from History, beginning with that which is here termed Defensive.

* Hist. v. 6. p. 302.

† If a law be right *per se*, an Association to procure the repeal of it, is termed, with equal justice, Offensive, whether it has been passed three days or three centuries; and every law is to be so held, until the contrary is demonstrated. At the end of this Tract it will be shewn, that the old Law of Treason contains a gross offence against the first principles of legislation.

SECTION III.

ON THE SPIRIT OF DEFENSIVE ASSOCIATIONS OF THE
PEOPLE TO MAINTAIN THE PREROGATIVES OF THE
CROWN.

THE spirit by which we may, in future, expect to see defensive Associations actuated, will be clearly seen in the conduct of those which have preceded them. The object of such an Association may be the defence of the authority of one or more of the constituent parts of the Legislature, of particular laws, or of the whole system.

THE Royalists who followed the fortunes of Charles the First, formed an Association in defence of the Crown. The formal nature of this compact I shall presently come to the exposition of. Before the adjournment of the Houses in September 1641, many excellent constitutional and municipal laws had been passed: and if Parliament had suffered some violences to take place, there seemed no danger of their being drawn into precedent. To pass over the two outrages which took place immediately after that assembly met again, the one on the part of the Commons, the other on the part of the Crown; the first of which seemed calculated principally to draw after it something of the nature of the second*; I go to the further part of the conduct of that assembly. They attempted to possess themselves of a great part of the executive power, by originating commissions by bill, for the highest offi-

* Appendix, No. III.

cers civil and military, the Lords Lieutenants and Deputies ; they refused to define the extent of their demands for the settlement of the nation * ; and they seized the King's magazines into their own hands. The catalogue of their attempts of this kind might be enlarged.

THE King was at last supported, not only by a virtual, but what is entitled to be called a formal Association ; according to the definition of such a compact given above. It was purely in its nature Defensive ; its object was to maintain the Constitution and existing laws, including those passed in the Parliament then sitting. The articles of that of the Peers, who first joined him at York, were in writing. The King made a Declaration, " That he expected from them no obedience to any commands which were not warranted by the laws of the land." They " answered this Declaration by a Protest, in which they declared their resolution to obey no commands not so warranted. Deliberate engagements," (says the Historian) " worthy of an English Prince, and an English nobility †." Again, when the King was on his march to Shrewsbury, in a solemn Protestation at the head of his army, he recognized the conditions on which he was to receive " aid and relief" from his subjects in general. We have here his own testimony to the terms of the Association, the preservation of the established laws ; among which, those of the existing Parliament were then first expressly named ‡. This compact, not reduced into writing by the parties like the first, was a defensive Association of the People on terms recited to them ; very

* Hume, v. 6. p. 416.

† Hume, v. 6. p. 426.

‡ Ib. p. 439.

nearly approaching to the form, and fully equal to the precision of an Association by parole ; and to this, those of the Royal Party who were absent, are to be understood as acceding.

THESE transactions are too solemn for us to suppose, without something of proof, that they were intended for the purposes of mere deception. It must be admitted, indeed, that the Declarations of the Heads of Parties sometimes hold forth only specious pretensions to gather strength, not their ultimate objects. While they seem to rest only on the first, their agents, by their intrigues and writings, are preparing the way for the second ; but when the primary and secondary partisans of a cause both decidedly look one way, we may presume with confidence that the ostensible and real views of the party are the same. "During the war," says Coke*, "it is observable, that the writers for the King chiefly maintained his cause out of Sir Edward Coke's Pleas of the Crown." But this appeal to his authority goes somewhat farther ; it amounts to a full, though tacit dereliction of the principles held at Court about seven years before the commencement of the war ; when Sir Edward Coke's MS. of the Pleas of the Crown, his Comment upon Magna Charta, and on the Jurisdiction of Courts, had been seized by order of the Privy Council, as dangerous and seditious. They had been lately printed by order of the House of Commons, and the originals restored to Sir Edward's heir, on their petition to the King.

THE Parliament at that time, without doubt, declared with equal warmth for the Laws and the Constitution, in general terms ; but their literary advocates looked ano-

* Coke's Detection.

ther way. It suited neither the measures nor the ultimate object of their principals, to fix the attention of the nation upon these repositories of constitutional knowledge. "I do not find," says Coke, "any who wrote for the Parliament *ever used any one topic* out of the Pleas of the Crown *, although that assembly had ordered them to be printed : " They probably repented of this order.

HENCE it appears, that the principles the Royalists set out upon, and continued to hold, were those of a defensive Association.

It is a question which comes in here, not directly indeed, but collaterally, Had the popular part of the Constitution obtained a due degree of strength when this Association to maintain it in its existing state took place? I have lately held the affirmative side of this question, but the examination of it is of such a length, that it is given in an article of the Appendix †. It may however be established very briefly *à fortiori*, upon the authority of Blackstone, in his History of the Progress and Spirit of the Laws of England, with which he concludes his Commentaries. Speaking of this period, "The King had now," says this learned Expofitor, "consented to reduce the prerogative to a lower ebb than was consistent with monarchical government ‡." It is a fact, that the Bill of Rights left to the Crown more legal prerogatives than Charles then possessed ||, or the Royalists fought to continue to him; and that he would have been very glad, after he had been peaceably readmitted to reign upon the terms of his Protestation, to have

* Coke, v. 1. p. 135.

† No. IV.

‡ V. 4. p. 437. 5th edition.

exchanged the whole mass of the prerogatives, which would have been so left him, to be a limited King on the footing of that instrument: and the place of all those Whigs, who, at the Revolution, thought the liberties of the kingdom sufficiently defined and provided for, would, in Charles's time, have been in the royal camp.

It is remarked in the last Section, that a Defensive Association does not act up to the whole spirit of its principles. It might be expected, if this general observation were frequently false, it would be found so here. The severities the Parliament exercised, in their own quarters, against the Royalists, under the name of Malignants and Delinquents, must have thoroughly taught those about the King what *they* were to expect, who had actually borne arms against the Parliamentarians, if they were finally conquerors. Beside, the engagements of the King, and the power they held in their own hands to enforce them, might have seemed to them a sufficient security to the Constitution, if that Party were vanquished; but they were determined not to suffer him to make peace as a conqueror. Coke lived and acted in those unhappy times: his father was a member of the Long Parliament, "and one of the first rate*." He tells us, "I have often heard several of those who followed the King in the war, say, they as much dreaded the King's overcoming the Parliament, as they feared to be overcome by them†." This is confirmed in some extracts of James's Papers, which I saw about six years ago. The Parliamentarians he states to have been in such a situation, that the King was able to have put an end to the

* Coke, v. 2. p. 52. 1694.

† Coke, v. 1. p. 135.

war at once, the metropolis lying at his mercy for some time: the leading men about him put a negative upon his march to London. The superiority of the Royalists over the Parliamentarians, until the junction of the latter with the Scotch, was incontestible. They acted with the humanity of an able swordsman, who, feeling his advantage over his antagonist, whom he is desirous to spare, waits to disarm him, till he receives a mortal thrust himself. We see here, that Associations in defence of the constitutional power of the Sovereign are not in their spirit inimical to the Constitution; and even that when great danger urges them to secure the full object for which they come forward, and it is placed completely in their power, they will not act up to the full spirit of their original compact.

BUT it may be said, that after such a Party is exasperated by resistance, and the sufferings they must have undergone in the previous struggle, they may be inflamed by victories to forget the moderation which restrained them in their doubtful fortunes, and push their vindictive triumphs to extremes. They will go further than the limits prescribed in their defensive compacts, when every thing is in their power. Before we had seen what the extreme of calamity is, in the cruelties inflicted upon the French nobility and gentry, we should have affirmed, that the Royalists of England had been irritated as much as the utmost severity of persecution could effect in a christian country and in an enlightened age. It may be still said their oppressions and sufferings were great, and they felt them with all the violence of indignation. "No social intercourse was then maintained between the two parties, no marriages or alliances contracted*." When

* Hume, v. 7. p. 340.

the crimes of the usurpers still further alienated the people, and their divisions annihilated their power, the Royalists suddenly saw themselves masters of the kingdom almost without an effort of their own. As they had all along "affected a greater superiority over their masters, the more they were reduced to subjection *;" their "implacability," their "fulness of rancour and revenge against all who were engaged in the late war against them †," was the object of dread to the latter. Yet, in the first moment of their return to power, they published Declarations in all the counties of England, which completely bound up their hands from vindictive measures: engagements which they fulfilled with fidelity equal to the conciliatory prudence with which they formed them ‡. I copy the conclusion of one of them, that of the nobility and gentry in and about the City of London. "It is our hope and prayer, that when the building come to be raised, it may not, like Rome, have the beginning in the blood of brethren, nor like Babel, be interrupted by confusion of tongues; but that we may all speak one language and be of one name; that all mention of parties and factions, and all rancour and animosities, may be thrown in and buried like rubbish under the foundation." This Declaration was signed by twenty peers, and fifty knights and esquires.

THE Royalists in the Convention Parliament of Charles the Second have been censured for restoring him without

* Hume, v. 7. p. 340.

† Baker's Chronicle, p. 700. Car. tit.

‡ "The Presbyterians were scarce wet with the tail of this storm, none of them (except those in sequestered livings), being punished either in their persons or fortunes. *Coke's Det.* v. 2. p. 101.

conditions;

conditions; and the misconduct of his reign, and the subsequent misfortunes of his family, have been attributed to this misplaced loyalty. Nothing can be less grounded than this censure: the Royal prerogative, before the breaking out of the Civil Wars, had been reduced "to a lower ebb than was consistent with Monarchical Government*," and any new limitations upon the Sovereign would have been founding a second Republic in the very act of destroying the first. The censure implies likewise that the authors of the Bill of Rights, in the prerogatives they left to the Crown, laid the foundations of a future tyranny.

AFTER the Restoration, the Royalists were still united in one compact body. In the second Parliament, their majority over their opponents was decisive; and beside, the whole tide of popular enthusiasm was by this time turned in favour of their principles. Now, to argue in the spirit of that jealousy with which a certain Party, now, verbally pretends to consider the multitude of insulated Associations of the gentry, and the greater part of the middle class of the people, in defence of the Constitution, and the constitutional power of the Sovereign, 'from such a Parliament, whose principles were supported by the zeal and ardour of a whole people, we might expect all the bad measures which could spring from the confidence of strength and the insolence of victory; goaded on by the recent memory of the sternest and severest oppressions, the effects of which, from the heavy mortgages by which compositions, sequestrations, and dilapidations, had involved their estates †, they must still have continued to feel. We might expect to see the

* Black. Com. v. 4. p. 437.

† Coke, v. 2. p. 101.

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‘statute-books, almost in every page, polluted by some violation of the Constitution.’—Instead of that, what do we find? Did they not clear that Constitution of everything which can be shown to be a relic of Norman tyranny, and (one Act excepted) carry it to what Blackstone has called its theoretical perfection *? Compare the effects of their victory upon the Constitution with that of Republicans, real and virtual, which preceded it.

THE system of Government, before the sitting of the Long Parliament, stood in the greatest need of a reform: the nation felt something beyond the violation of sophistical parities begetting ideal grievances: it laboured under great practical oppressions, and justly dreaded they would be perpetuated and increased. The past conduct of the King could not find a reputable defender in the Commons when they first assembled: this assembly contained many excellent men, intent on real reformation, who were soon able to effect whatever they had intended. On his return from Scotland, the King had at least an equality in the Lower House; the best men were disposed to stop at the point they had attained; the other party, backed by the populace of London, rendered it impossible. An instructive lesson to those who directly or indirectly appeal to the populace to effect the best reforms;—always to be sure to have an effective restraining force in hand, to put an immediate stop to the conti-

* Commentaries, v. 4. p. 439. It was a great error in the Royalists to have repealed the Act by which Parliaments were to be assembled at stated periods, as they did not substitute a more convenient term in its stead; and the error seems equal in the framers of the Bill of Rights, that they did not apply the proper redress.

nuance of their movements when their purpose is attained*.

I AM approached so near to the Abdication of James, that I shall continue the history of the transactions of this Party to that great epoch. There we shall find some deviations from the rectitude of their former conduct, and a splendid return to it; exhibiting a balance much in their favour. After the fiction of the Popish Plot had obtained too extensive belief, the danger of a civil war appeared as threatening at least as in the year 1640. Coke, who saw the ferment of the nation in both periods, affirms, that at that time "the nation was more "fiercely rent in divisions, under the names of Whig "and Tory, than it was before the wars †." In 1680 the Popular and Republican Party had recourse to the same means of inflaming the Nation which had been practised with so much success in 1640—tumultuous Petitioning. The end this leads to is always the same, be its object what it will; namely, the constraint of some power which the Constitution leaves free. It was now employed to obtain an immediate session of Parliament. The Royalists endeavoured to counteract the effect of this measure, by Addresses to the Throne, declaring their "abhorrence of those, who endeavoured to encroach upon the prerogative, by prescribing to the "King any time for assembling the Parliament." Tumultuous Petitioning is at all times a tacit menace, and meant to be so understood. At this juncture it was believed to be the signal of civil war. Yet the abhorers, influenced by their recollection of the past and their

* See further on this principle, p. 73.

† Coke's Detection, v. 1. Apology to Reader, last page.

fear for the future, certainly expressed themselves in words not favorable to the right of orderly Petitioning, though they cannot be directly applied against it. It may very well be also affirmed, that the most zealous friends of the popular branch of the Legislature ought at that instant to have been the most determined opposers of the Petitioners. For the King, without doubt, had at that time fallen upon the plan which, with an address fatal to his family, he was afterward able to carry into execution;—that of disgusting the nation with the violence of successive Parliaments, that he might at last rule without them. After the dissolution of his second Parliament, it was his constant practice to issue writs for a new House of Commons, at a season when the most intemperate of his opponents had the best chance to obtain seats in the Lower House. With the same policy, when it was assembled, he so adjusted his concessions to their violent Motions, that the friends of the Laws and Constitution of the kingdom thought them to be so great as to be inconsistent with the internal balance of their system; yet they were so limited that he perfectly knew beforehand they would be rejected contemptuously by Opposition. Besides, this apparent facility in making concessions they never could have expected, elevated them with the strongest expectations of a final victory over him; and led them on from extravagance to extravagance, until the Nation, warm in the praises of his conciliating moderation, became united against them, and was not solicitous to see such assemblies meeting again very soon. He hardly made a secret of this policy, previous to the meeting of his last Parliament*. The tumultuous Peti-

* Macph. Hist. v. i. p. 351.

tions of the times increased the violence of the Commons by the assurance of popular support ; thus assisting the lures and irritations of the Court to hurry them into the snare. They ought to have been opposed with the most determinate measures : but the zeal of the Addressers pointed out to the King, with what rapidity the credit of Parliaments began to fall.

It is thus we see, that in the middle of the ferment about the Popish Plot, in 1679, he dissolved one Parliament, and issued writs for the election of another next day *. This could serve only to irritate his opponents ; sure, in the present temper of the lower voters, of their re-election, and even to increase their number. And, that he might farther aggravate the factious violence of the new House of Commons, by repeated proclamations he hindered their assembling for more than a year after the time originally appointed. This gave birth to the Petitions for a session mentioned above. That his concessions were constructed with the art I have described, in order to discredit Parliament with the sober part of the people, will appear from the following account from Hume, where we shall see him making a previous experiment, upon a large scale, of their aptitude for this very purpose, before he brings them actually forwards into practice. Temple and Shaftesbury were of the Privy Council in 1679, when Charles proposed to the Board a scheme of limitations on a Popish successor, to defeat the Exclusion Bill. From what Temple said on them, he was confirmed in his judgment of the sentiments the true supporters of the National Constitution would form

* Macph. Hist. v. 1. p. 299.

of this sacrifice. It was the opinion of that great Statesman, " that the restraints were so rigorous as even to subvert the Constitution ; and that shackles put upon a Popish successor would not afterwards be easily cast off by a Protestant *." By this authority Charles was confirmed in his expectation, that, when three successive Parliaments should have rejected such concessions, and the fear of a civil war was hanging over their heads, he should have led the sentiments of a misguided and, at length, confiding people to the point to which he wished to bring them. By the opposite declarations of Shaftesbury he was likewise assured what powerful assistance he should receive from *his* faction toward the success of his scheme, when the President of his Privy Council told him at the Board, " that the restraints" (which Temple thought excessive) " were insufficient ; and that nothing but the total exclusion of the Duke could give a proper security to the kingdom †." In this he foresaw the contemptuous rejection of his propositions, and his ultimate miserable triumph. If I understand what Mr. Sheridan is stated to have said, he thinks he has discovered some similitude between the Associators for the defence of the National Constitution in 1792, and the Royalists at the period here treated of. To discriminate exactly how much of truth and how much of error may enter into that conception, would draw me too far ; but of two points I am confident : No system so insidious will be now used to lead us into ruin ; and that, enlightened as we are by the example of the past, if such an attempt were made, it would not be successful.

* Hume, v. 7. p. 102.

† Ibid.

THERE is also a farther charge which may be brought against the party of the Royalists in Charles the Second's time. Shaftesbury, to forward his attack upon the Royal power, forged the Popish Plot. Thus he took away the lives of many innocent men with, and some almost without, the forms of law. The Royalists, in the latter end of Charles the Second's reign, abused a seeming victory for a short time; giving countenance to something too much like an imitation of those shameful hostilities commenced by their adversaries, but not on so terrible a scale. But when a general danger, augmented perhaps somewhat by their former intemperance, threatened the liberties of the kingdom, they stood forth the foremost in their defence: the great majority of the Dissenters and Exclusionists had enlisted as the satellites of Tyranny.

THE fear of a second Civil War, when they had hardly emerged, half ruined, a very few years before, from the first; the terrors of legal assassination suspended over their heads; and the profound art of Charles the Second, led this defensive party, at the beginning of this latter period, into some bad measures; and though we may say of those of their opponents, which caused them, that they were much worse, they detract somewhat from their political merit, in being the chief instruments in placing William on the Throne, and maintaining him there, but not the greater part of it.

I BUILD nothing upon a few extravagant declarations of either Party. Both of them are to be judged by their practical principles; that is, those which they display in action, or which are displayed in the actions of men whom

whom they hold out as examples. The characters of Parties are also to be estimated like those of individuals—from the general tenor of their actions; not from accidental errors, which are an exception to it: and so estimating the Defensive Association to preserve the limited Royal power, from the Civil Wars to the Revolution, we have seen that it was friendly to the limitations of the Monarchy, as well as to the Monarchy itself; and twice, in fact, preserved them at its own proper hazard.

I CONCLUDE my remarks on the interesting history of their conduct with the following observation:—If this Association had been able, not only to preserve the legal power of the King when it was attacked, but even to extend it afterwards, and had so done, it by no means follows, that if it had been divided into any great number of sections, as, for instance, two thousand, acting independently of each other, without a Council or single person at their head, that it would have been able to effect both these purposes; or even the first, against a concentrated Opposition of any degree of power. It appears therefore, that a Republic of small Defensive Associations, such as that which started up in 1792, is by no means dangerous. But a people so associated is much sooner formed into order to oppose any violence upon their Laws and Constitutions, than if the danger comes upon them when totally unprepared.

SECTION

SECTION IV.

ON THE SPIRIT OF DEFENSIVE ASSOCIATIONS TO MAINTAIN THE LIBERTIES OF THE SUBJECT.

FOR the support of the Offensive Association now set on foot, examples of others, Defensive in their nature, and whose transactions are intitled to the veneration of all succeeding ages, will certainly at this time be produced, and said to be of the former kind. Of these there are three eminent instances in our History: The Association of the Barons at Merton; that in the time of John; and the Coalition of the Whigs and Tories in 1688, to invite the Prince of Orange into the kingdom. Two of these at least we might have passed by, as not being Popular Associations, if it had not been foreseen that it would be necessary to show that all of them were Defensive only; and to take care, that in all discussions on this subject, a Defensive Association of the Nobles should not be brought as an instance of an Offensive Association of the People.

FROM the definition of the term, it appears that the noble and unanimous resistance of the Barons against the introduction of the Civil Law into England, in the Parliament at Merton, said to have been designed by the Clergy, was a Defensive Association, not Popular.

THE Association of the Barons against John was likewise Defensive. At his coronation he had sworn to

to maintain the Laws of Edward the Confessor, the particulars of which were fallen almost into oblivion. A Charter of Henry the First recited and confirmed them. Of the contents of this little was known, until a copy of it fell into the hands of Stephen Langton, Archbishop of Canterbury. Favored by opportunity, he determined to make use of this fortunate discovery. In this he proceeded step by step, with great address. One condition imposed by the Archbishop, before he gave John an absolution from his excommunication, was, his renewing his oath to the Saxon Laws; he afterward induced him to confirm the Charter of Henry the First. At the breaking up of the following Parliament in London, the Archbishop called a private meeting of some of the chief of the Barons. They were easily induced to promise to take the first convenient opportunity to have this Charter validly established, and they retained it in their own hands*. John now departed on an unsuccessful expedition to his foreign dominions. A little time previous to his return, the confederacy having spread wider, and comprehending almost all the Barons of England, a meeting was summoned by the Archbishop at St. Edmundsbury, under pretence of devotion. It was there agreed, that they should prefer their petition for the actual observance of the Charter in a body; and in the mean time take arms to enforce their demands. These

* The oath to the Saxon Laws was treated by the first Norman Princes as a form only. The contents of the Charter of Henry the First were even unknown when the Archbishop produced it to the Barons. "There is now likewise discovered (says he) a certain Charter of Henry the First;" and Johnson observes, that "He put the Barons in the right way to claim their estates with their writings in their hands."—*Vindication of M. CH.*

particulars being settled, going up to the high altar in the church there, they swore in their order to adhere to each other, and not to lay down their arms until they had obtained their demands; which, after some ineffectual resistance, John was obliged to grant at Runnymede. This Association, sanctified by the forms of religion, was strictly Defensive. The Charter had before been admitted by John to be the Law of the Land, and even some articles of that instrument, which would have increased the value of their baronies, but greatly affected the Crown revenues *, the Barons had the moderation to give up, when John could not have succeeded in maintaining them. But the faithless character of that Prince induced them to demand the nomination of twenty-five members of their own body, as conservators of the articles of the amended Charter †. We find here, and during the whole of the following reign, when the House of Commons first became a constituent part of the Legislature, the English Clergy taking part with the majority of the Barons against the Pope and the King, who always acted in conjunction.

It must be admitted, that this and the former Association were purely Defensive. They also resembled in nothing a Popular Association; they are no more intitled

* The different manner in which this Charter affected the powers exercised by the Crown, and its legal rights, is very singular. The first were greatly restrained, many usurpations being cut off, but its legal rights were extended by it: some lucrative feudal incidents abolished by the former Charters, were restored by this.

† Hume's History and Vindication of Magna Charta. Johnson's Works, fol. 1713.

to be called so, than a league of the numerous Princes, Dukes, and Counts of Germany against the Emperor, or the Ecclesiastical Electors would be; or the opposition of an hereditary Senate of Nobles against a Prince or the Prelates of a State.

AT the Revolution there were two Associations; for we may call the invitation of the Prince of Orange an act proving an antecedent compact of that kind; and after his landing, there was an instrument bearing that name, drawn up by Burnet, on the requisition of Sir Edward Seymour. He is the best reporter of the object of his own paper. It contained, in few words, "an engagement of the subscribers to stick together, in pursuing the ends of the Prince's Declaration*," and in defence of his person. That Declaration was confined to past violations of law, and a requisition of redress by Parliament. "And the Prince thereby assured the world, that his expedition was intended for no other design but to procure a free Parliament, to heal the breaches between the King and his subjects †." Nothing is to be discerned here but measures of defence and conciliation. "It was signed by all who were with the Prince; even by many who refused afterwards to take the oaths to the Prince when seated on the Throne ‡."

THE Abdication of James annihilated the greater part of the conditions of the Association, by rendering the execution of them impossible; but while it subsisted, no act

* Burnet's Hist. 12mo. 1725, v. 3. p. 1332.

† Macpherson's Hist. v. 1. p. 522.

‡ Dalrym. Memoirs, part 1. p. 161.

took place which went beyond its primary object; and when the members found themselves in circumstances absolutely unprovided for, because they could not have possibly been foreseen, they acted on the defensive spirit of that engagement which survived the letter. At the Revolution "no one part of the Constitution was altered or suffered the least damage; but, on the contrary, the whole received new life and vigour." This was the doctrine held by Sir Joseph Jekyl at the Trial of Dr. Sacheverel*.

THIS compact likewise was very different from a General Association of the People: it was an Association of Heads of Parties, or rather of persons holding a power over their followers; somewhat between Heads of Parties and Feudal Chiefs. For, in the confusion of the Civil Wars, the tenants and dependants of the greater landed Gentry had been accustomed again to follow them as their military leaders. The habits and ideas of the military subordination of a tenant to his chieftain, thus revived, were not worn out again. Much of it was superadded to the influence of landlord over tenant, as we now see it exist. This yeomanry therefore did not, by the act of following their landlords, accede to the Association as equal parties therein, or as invested with an equal power of deliberation and resolution in claims or measures. That great majority of People, *the Populace*, did indeed, while the event of the Revolution remained in suspense, declare their wills twice; or at least the only part of the lower orders of the kingdom who were enabled by circumstances to declare it; that is, the populace of Lon-

* Appendix, No. VI.

don. When James, after the failure of his attempt to go over to France, returned thither, " never Prince re- turning after victory to his capital, was received with " louder acclamations of joy * " by the " populace." On the 16th of December they rejoiced at the appearance of his resumption of the Royal power; and on the 4th of the following February they expressed their second will upon the subject; tumultuously assembling in crowds at the doors of the Houses of Parliament, loading with imprecations those who adhered to their will of the 16th of December, and its opponents with blessings. The Prince of Orange issued a Proclamation to stop these disorderly proceedings, although in his favour †.

THE manner in which the attack upon our Constitution of Government will be on this occasion made, in writing or speaking, is so evident, that it is not difficult to guard against it. It may be very well foreseen, that every Association recorded in our History, which has been followed by a happy event, will be cited as a precedent in defence of Mr. Fox's. To prevent such irrelevant instances being brought into

* Macpherson and Hume.

† When Charles the First returned from Scotland, November 25, 1641, " he was received in London with the shouts and acclamations of the people, and every demonstration of regard and affection." Hume, v. 6. On December the 27th, prior to the accusation of the five Members, the populace assembled in a tumultuous manner, and went to Whitehall to declare their will, " that they " would have no more porter's-lodge, but would speak to the King " when they pleased." Baker, Chron. 515. The will of the sovereign populace seems as ill-informed and capricious as that of any other precipitate and ignorant despot; and that will is the will of the sovereign people, whenever it is really and truly taken; as they constitute more than nine twelfths, that is, three fourths of Society.

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the argument, it has been shown that none of these have been General Associations of the People, or to which the populace were a party; and that none of them have been Associations of acquisition, or Offensive.

SECTION V.

ON THE SPIRIT OF OFFENSIVE ASSOCIATIONS OF THE PEOPLE.

I. ON PRETENCES OF RELIGION:

I REPEAT what has been laid down in a former Section: Those Associations are here termed Offensive, the objects of which are, some change of the existing Laws; whether relating to the governors or the governed:—and Popular, in which the populace become, or are invited to become, contracting parties.

THE objects of such Associations may be very laxly declared, or they may be very accurately limited, in the original contract. After having given examples of some of the indefinite kind, it will be in like manner shown what confidence may be placed in the fidelity of the engagements of limitation held out by others.

THE instances of Associations, the objects of which have been very laxly defined, are so many, that it will be expedient to arrange them in some order. Those which have

have been formed under Religious Pretences, and those on the principles of the Rights of Men, will form two Sections: in the latter no particular account of the late French Revolutions will be entered upon; they will be referred to incidentally, and by way of illustration only. Offensive Associations, strictly limited, will then become the subject of a separate Section.

POPULAR Offensive Associations, under religious pretences, are first to be here considered. I shall begin with the Catholic League in France, which was formed in 1575. Its nominal object was to annul the famous Edict of Pacification, granted by the King to the Protestants in May the same year: hence it was an Offensive Association. It was not until the death of the Duke of Alençon, nine years after, that it was converted into an instrument to further an attempt to change the succession of the Crown. This was the fatal precedent of the Scottish Covenant for the abolition of Episcopacy; afterwards adopted in England with some variations. By the operations of these General Associations, Great-Britain and France were each divided, as it were, into two hostile nations, shut up in one territory, and each of them involved in civil wars, in usurpation, and anarchy, about twenty years. This is not the first instance in which the contagious example of a French insurrection has given rise to another in this country, threatening to annihilate us as a nation: but I hope our remotest posterity will continue to be able to say,—It is the last.

THE only remaining compact falling under this division, here to be noticed, is the Protestant Association under Lord George Gordon. This likewise was Offensive,

sive, as its object was the repeal of certain Acts made in favour of the Romanists*. The plan of his Association also, though nominally of a part of the people, was effectively general; for the proportion of the followers of the Roman Church in Britain in this age, to the number of Protestants, does not exceed that which took place in King William's time; or the hundred and seventy-ninth part of the people†. The spirit of persecution had long been dormant, and it might have been hoped was extinct: for the passions of the populace had not for years been roused against the objects to which they were now turned. Yet the direction was given to them with so little preparation, as hardly to be the subject of alarm; they unexpectedly broke out into insurrection, and we saw them masters of the metropolis some days, the prisons broken down, and their vilest inhabitants turned loose again upon Society, or set at their head to plan and lead them on to more dangerous and enormous crimes; fires in every quarter of the City; and the Bank, the depository of the wealth and the column of the credit of the Nation, which cannot be shaken without extreme hazard, or overthrown without crushing everything beneath it in its ponderous ruin, hardly saved from their attack; when abroad we were at war with four nations, without an ally, the rest of Europe looking upon our danger with a lowering and inimical neutrality, and at home we were almost torn in pieces by our intestine divisions.

As it is not pretended that any amelioration of the spirit and manners of the English populace has taken

* It was the converse or counterpart of the League of the Gueses.

† Dalrymple, from William's Papers.

place since this dangerous period ; we may legitimately, from this event, deduce some conclusions on the state of their dispositions at this juncture, directly applicable to our main subject. The inveterate spirit of persecuting the Romanists, and the principles of Levelling, were the distinguishing marks of the Republicans of the last age. Little art or endeavour, however, has been exerted to keep the former alive, ever since it began apparently to die away. Yet we have seen this spirit, as it were, start up, and threaten the ruin of the State. But the embers of Republicanism and Levelling have, during all that period, been carefully raked up ; and, for fear they should become extinct, there were hands which were seen from time to time supplying them with a sufficient quantity of fuel to keep them alive. These principles have been never suffered to die ; but lately they have been diffused with the most systematic and malignant diligence, and they have been embraced with all the fervor of a new fanaticism by a great number of the populace. Where Lord George Gordon made one real enthusiast, the Agitators have made fifty. And is there no danger to be apprehended from the new Association, to which they will all throng to subscribe, when that of Lord George Gordon, constructed with so much less art and preparation, formed of so much feeblér materials, brought us to the brink of ruin ? ‘ It was not,’ it will be said, ‘ the real fanatics that did the mischief, but a multitude of miscreants under the mask of the fanaticism of religion.’ But are the morals of the populace improved since that time ? Are not such miscreants mixed among them at least in an equal proportion ? And if any mask be provided for them, will they not make use of it, whether it be that of religious or political fanaticism ? If we urge to you the example of France, you will say, ‘ No

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‘ such

' such violences are to be dreaded from the populace of
 ' England: they are more enlightened than the French
 ' were at the commencement of the Revolutions; that
 ' the oppressions of the commonalty of France was
 ' greatly more than that class of people experience
 ' here.' As for the lights which they may possess, those
 which have been given them since the Riots of 1780
 are not of a kind to make them less forward in insurrec-
 tion; and as for oppression, the poor man suffers none
 here: he has been taught, indeed, to give that name to the
 whole amount of the taxes; as well of those which do
 not, as those which do affect him: this total is his re-
 puted measure thereof; and it has been increased
 in these last fifteen years. Popular tumults are
 therefore to all appearance more probable, more
 big with the prospect of national ruin now, than
 they were on the day preceding the insurrection of the
 Protestant Association. And when you call upon us to
 rely upon the good sense of the populace to make a just
 comparison of their own state with that of the lower
 classes of other nations; by exaggerating the increase of
 the taxes, and declaiming* perpetually and with extrava-
 gance upon it, you endeavour to make the result of that com-
 parison false, on which you call upon us to depend. With
 their minds thus prepared, whether the fanaticism infused
 into them for that purpose be either of the kind called
 religious or political, or both conjointly, they generally
 effect all the destruction in their power: and if their
 association now become general throughout the kingdom,
 their power will have no limit. It may be asked now,
 what will become of that position so much insisted on,
 that ' nothing but real grievances will drive the popu-

* In these declamations, the fact that the mass of the new taxes
 affects the Upper Orders only, is suppressed.

‘ face into insurrection and violence ; that their wrath, though often dreadful in its consequences, is always just in its cause and commencement ; that though they may reason ill, the effect of the errors of their judgement always passes off in harmless and empty noise ; and that they never begin to act but from their feelings only, which cannot deceive them.’ In this insurrection we see a strong instance of the falsity of this opinion, which many have endeavoured to support from different motives, in order to impress upon us a belief of the infallibility of the people, when they come into political action. The humane indulgence extended to a respectable but persecuted sect in 1780, was no grievance which the populace felt anything from. It even attacked no prejudice which had any active operation in their minds the day before this Association was planned : and the event clearly shows, that false abstract principles may be infused into them ; prejudices long dormant may be re-excited as it were in a moment, and instantaneously produce an insurrection which may hazard or destroy the existence of Civil Government.

SECTION VI.

ON THE SPIRIT OF POPULAR OFFENSIVE ASSOCIATIONS,
ON THE PRINCIPLE OF THE RIGHTS OF MAN (SO
CALLED).

EVERY instance in History of the fatal effects of religious fanaticism has, in this age, been studiously and invidiously collected, and brought forward to public view ; but those of combinations and associations to obtain Political Equality, and to vindicate what are now

called the Rights of Men, have been little enquired after; and France is very generally supposed recently to have exhibited the first example of the calamities they have produced. I have often wondered at the prevalence of this opinion, and it would have been fortunate for human kind, and for that fine country in particular, if it had been true. But her fate has resembled too much that of the beautiful and cultivated tracts which lie round the base and ascend part of the sides of Mount Vesuvius: the volcano seems extinct for ages; the harvest, the vineyard, the farm, the villa, the palace, and every mark of fertility, cultivation, and splendor, seem to have made it their selected spot: but the periodical eruption returns, and a conflagration sweeps all these beauties from the earth.

WHEN the populace is brought into action, they will ultimately be governed in their conduct by the most violent set of principles which has infected any large section of them. This point is laid down simply now; I shall return to the consideration of it. But the principle of the Equality of Right, and that understood in its most fatal sense, has been long fermenting among, and at length infected no small part of the lower classes of Society in Europe. While, therefore, we look upon the late calamities of France as a political phenomenon, single and unprecedented in its kind, when it is only one instance among many, we estimate the greatness of our hazard much beneath its magnitude, which increases in proportion to the number of such events that have taken place during the period of authentic history, and likewise with the relaxation of our watchfulness caused by this error; which is more singular, as our own History
points

points out to us the danger of England being a second time desolated by the contagion of these principles, by an exprefs example. This Section I fhall divide into Parts; each containing the history of one infurrection of this kind, with observations.

I. ON THE INSURRECTION OF THE JEWS, BEGUN
IN THE REIGN OF NERO, AND TERMINATED IN
THAT OF VESPASIAN.

THE first country which the *supposed* modern metaphysical philosophy of politics deluged with the blood of its inhabitants, was Judea. Judas and Sadoc (fays Josephus) were the founders of a *school of philosophy new to mankind* *. Their followers were distinguished from the three pre-established sects, by teaching the doctrines of Liberty in the abstract (THE, FREE): their attachment to these nothing could move. Those who dressed out their panegyric orations on Liberty with the ambitious ornaments of tragical declamation †, were sure of an admiring audience. Thus we see the orators of the Palais Royal and Copenhagen House had their predecessors in Judea. These men consecrated the doctrines of Civil Equality, by considering it as a point of religion to acknowledge no lawful superior or King but God ‡; and

* Jos. Hud. p. 792,

† Ibid. p. 1085,

‡ Liberty and Equality are expressed by Josephus by το ελευθερον and το ισαιμον. Jos. Hud. p. 794. l. 5. & p. 1183. l. 26. The latter of these terms has not the ambiguity of the word *Equality*. And p. 794, Δυσκωλιος το ελευθερον εως εστιν ανθρωποις, μονον ηγαμενα και θησασιν τον θεον υπελευθερον.

then (perhaps) mankind were first taught the *sacred duties of insurrection*; and Ananus, the high priest, is represented to have been so much attached to the principle of Equality, that he delighted to make it evident in his conduct to the most abject. His enthusiasm for Liberty exceeded all measure, and he was *an ardent lover of Democracy**. The professors of *this new philosophy*, by an insurrection, got all the powers of the State into their hands. I shall not describe here the crimes of a ferocious populace, whom they let loose against the upper orders, or excited against each other. Every successful commotion, upon these principles, has the same termination;—the massacre or emigration of the Nobles and people of property. That of Judea ended finally by the Jews ceasing to exist as a Nation.

II. INSURRECTION OF THE BAGAUDE, IN THE REIGN OF DIOCLESIAN.

BUT France has suffered oftener from the spreading of these principles than any other nation. When that country has been greatly exhausted by foreign wars, they have repeatedly burst, as it were, from a latent state, into action, and added this extreme of calamity to what it suffered before. A long series of troubles agitated Gaul from the reign of Gallienus to that of Dioclesian: the peasants, oppressed with the joint weight of public distress and *feudal services* †, took arms against their lords;

* Jos. Hud. p. 792. l. 11.

† The Gauls, in Cæsar's time, were already divided into three orders of men, the Nobles, the Druidical Priesthood, and the Common People: the last was not of any weight or account in their public Councils. Ibid.

"an event (says Gibbon) which, though it is mentioned in a few words by our imperfect writers, deserves, from its singularity, to be recorded in the history of human manners." The insurgents were called the Bagaudæ; a name derived from the Celtic word Bagad, which signifies a tumultuous assembly. "*They asserted* (continues the historian) **THE NATURAL RIGHTS OF MEN,** but they asserted those rights with the most savage cruelty. *The Gallic Nobles, justly dreading their revenge, either took refuge in the fortified cities, or fled from the wild scene of anarchy. The peasants reigned without controul*.*" As this account was published in 1776, it will not be said that the historian has tortured some obscure and brief notices into a parallel with the late Revolutions in the same country. The reduction of the Bagaudæ was the first exploit of Maximian, after his nomination to the Empire by Dioclesian.

III. INSURRECTION OF THE JACQUERIE, IN THE REIGN OF JOHN OF FRANCE.

THE next irruption of this kind, which laid waste France, took place in 1358. It resembled that of 1789 so much, not only in its general character, but in particular circumstances, that we seem almost to be reading the same history under different names. It was the insurrection of the Jacquerie, to whom the modern Jaco-

* Gibbon's Hist. v. 1. p. 361, 362.

Jacobins have succeeded, not only in spirit, but in title*, after the interval of 440 years.

THE war with England had exhausted the resources of France; King John was a prisoner in London; the Dauphin, then of the age of eighteen, assumed the exercise of the Government, and having obtained a truce of two years of the English, he called an Assembly of the States to procure supplies. Here he found every Order negligent of the public distress, and desirous only to augment its own power: he therefore hastened their separation. At that juncture, Charles the Bad, King of Navarre, who had great possessions in France, aspired to the Throne. We have seen him and his crimes revived in one of his descendants, the late Duke of Orleans.

* It must be observed, that the name of Jacques in French, or Jacobus in Latin, is the same as James. Hence the terms *Jacquerie* and *Jacobins* may be translated "the Society of James, or St. James." The principle on which this insurrection was formed, was, according to Gibbon, the same as the former;—"to assert the natural rights of men." In his 17th note to c. 13. he refers for the particulars of it to Froissart. I am not in possession of his Chronicle. He censures the accounts our best modern writers have given from him; I suppose he glances at Hume's History: he says the *naïveté* of Froissart's story is lost in them. What *naïveté* the relation of the circumstances of the crimes to be related can admit, is not very easy to determine. However, as it taxes these relations with being imperfect, I have copied all the circumstances most precisely delineated, from two histories of the same event; that of Mr. Hume, and another given in The Universal History. What is taken from the former is to be found in v. 2. pp. 476, 477, 478; and from the latter, v. 20. pp. 119, 120, 121: the separate accounts are certainly inadequate.

CHARLES of Navarre had been able to gain to his party the seditious *Prevôt des Marchands*, or Mayor of Paris, Marcel, and that factious populace. The latter sent an assassin to murder the Treasurer of France, who afterwards took sanctuary: the Regent sent two mareschals to apprehend and execute him: the Mayor, Marcel, upon this raised the populace, broke into the apartment of the Prince, murdered the mareschals before his face, and, when he saw him apprehensive of his own fate, as a mark of his protection, snatched the Prince's hat off, and clapped the cap (the badge of the faction of Navarre) upon his head. I must candidly remark here, that the colour of this cap was blue *, and not red. The Dauphin-Regent was forced to dissemble his resentment, and to take all in good part.

AFTER this insult, he was detained in a kind of captivity; in which state a poison was administered to him, by which he lost his hair and his nails. This was suspected to have been done by the direction of the King of Navarre.

IN the meantime the faction at Paris, though seemingly inclined to Charles, was more disposed to change France into an effective Republic than to pull down one

* I find in an English History of France, that the cap was striped blue and red; I cannot settle this important matter. It is more to the point to observe, from the same History, that the palace was forced by 3000 citizens, each of whom wore the cap: as they moved under the order of the Mayor, they were probably a part of what has been since called the National Guard belonging to that city. Both the Dauphin, though extremely young, and the King of Navarre, possessed great popular eloquence; they frequently harangued bodies of citizens.

King in order to set up another. The plan of the leaders of the insurgents of Paris of that time was precisely copied in the first of the new French Constitutions ; it was " to change the form of the Government, to vest the " supreme power in the Third Estate, and to leave the " King his title with little or no authority." This was the Constitution proposed by that metropolis to the other cities, but then rejected by them. It was not until some little time after that their minds *were elevated to the height of such a Revolution* *. But the Regent, who had been obliged to temporize and dissemble, having been so fortunate as to escape out of Paris, and *not to be intercepted in his flight*, that capital and the other cities of the kingdom shook off the Royal authority, took the Government into their own hands, and spread disorder into every Province ; and the troops, left without pay, no longer regarded their Officers, or were restrained by any discipline from indiscriminate plunder.

YET this devoted country was to be afflicted with the addition of another calamity, in weight and magnitude exceeding the total of what it then suffered : this was the insurrection of the Jacquerie or peasantry. The populace of the cities had found employment for the exercise of the new lights they had obtained in the school of the metaphysical politicians, in the establishing of their new municipalities or little independent republics ; destined, perhaps, if their progress to the perfection of civil society had not received a check, to have become the insulated and repulsive elements of a prior French Republic, one and indivisible. The principles of this Association, as it has been

* Dumouriez.

already

already remarked, have been assigned by Gibbon, who particularly professes to have examined the original accounts of them himself, for the purpose of acquiring light to fix the character of a similar event. These insurgents, he says, " asserted the natural Rights of Man." It has been proved, that he ought not to be accused of having surveyed the occurrences of this period with an eye tinctured with the prejudices of the present ; of having corrupted the faith of history to inflame what is called liberticidal prejudice.

THE Members of the Jacquerie did not repel the violence of the citizens and soldiers as an injury to themselves ; they followed it as an example. The object of their fury was the Gentry ; whom, while they were recovering their own rights, they upbraided with cowardice for deserting their Sovereign at the battle of Poitiers. From this precedent, perhaps, has arisen the constant subsequent practice of those who are endeavouring to convert a Monarchy into a Republic, to mask their first measures under great professions of zeal for the honour, happiness, and dignity of the Prince.

" THE castles of the gentry were consumed by fire, and
 " levelled to the ground ; and they were hunted like wild
 " beasts, and put to the sword without mercy. The savages proceeded so far as to impale some gentlemen and
 " roast them alive before a slow fire. Their wives and
 " daughters were first ravished, and then murdered : a
 " body of 9000 of them broke into Meaux, where the wife
 " of the Dauphin, with above 300 Ladies, had taken shelter : the most brutal treatment and most atrocious cruelty were justly dreaded by this helpless company : but
 G 2 " the

“ the Captal de Buche, though in the service of Edward,
 “ yet moved by generosity and the *gallantry of a true knight*,
 “ flew to their relief, and beat off the peasants with great
 “ slaughter *.”

ONE

* Hume, vol. ii. p. 478.

There seems, even in former ages, to have been something fascinating to Englishmen in a beautiful Dauphiness; for “ the swords
 “ which leaped from their scabbards to avenge the looks that threat-
 “ ened her with insult *” and violation, were those of Englishmen,
 and then national enemies. Although the number of this detachment
 under the Captal was certainly less than 10,000, Mr. Burke seems to
 have had this anecdote in his eye when he wrote the beautiful passage
 of which I have given an extract: and Bishop Hurd would say, that
 without copying the account, he gives us only a copy of the impres-
 sion it had made upon him †. The whole of Mr. B.’s observations on the
 genius of ancient chivalry is attacked by Dr. Priestley with the excess
 of chicane and dogmatism. “ Its spirit,” says that writer, “ nothing
 “ but an age of extreme barbarism recommended ‡.” He censures
 its being called by Mr. B. “ the nurse of manly sentiment and heroic
 “ enterprize.” What it may pass for in the revived school of the
 Gaulonites, I am not very solicitous about; their conclusions are not
 to be trusted one iota further than they are confirmed by induction.
 Yet these are those who tell us, that in all questions relating to the
 interests of society we are to desert Lord Verulam, and return to the
 cobwebs of the old ontologists. The philosophy of history must be our
 guide on these subjects; and that was certainly as well known to
 Raynal, as to this other apostle of Civil Liberty.—Speaking of the cha-
 racter of the Portuguese in 1515 § he asks, “ Had a nation ever been
 “ seen before, with powers so apparently inadequate, effect such great
 “ things?—What men must the Portuguese of that age have
 “ been? and what were the extraordinary principles which formed
 “ them into a nation of heroes?—The institution of chivalry, one
 “ of those which has carried human nature to the highest point of
 “ elevation; the love of glory substituted in the place of that of our
 “ country; that spirit purified from the dregs of barbarous ages,
 “ generated from the vices of the feudal government, to redress of

* Letters on the French Revolution, p. 112, 113. 4th edit.

† Hurd’s Hor. v. iii. p. 216.

‡ Priestley’s Letters to Mr. B. 3d edit. p. 28, 29.

§ Histoire Philos. et Polit. Amsterdam, 1770, t. 1. p. 78, 79.

“ mitigate

ONE observation must be here made on the proximate cause of both these sanguinary insurrections, adverting more particularly to the latter,

FROM the very nature of the feudal system, it is not to be supposed that either of these calamitous periods was distinguished by any extraordinary oppression of the lower orders by the Nobility or Gentry. Previous to the latter, the arms of Edward, and the intrigues of the King of Navarre, had long kept France in a most unsettled state; and the Nobility must have felt, for a considerable term of time, an increasing want of the attachment of their vassals, and, consequently, been obliged to treat them with more than ordinary regard. Beside, it is by no means certain, that in the semi-barbarous state in which France was then plunged, the burthen of the feudal services exceeded the value of the protection the tenant then received from his lord: the latter at that time might be esteemed fully equal to the former. As it was a well-known practice for those who possessed allodial lands, or such as were free from feudal

“ mitigate them. Chivalry in that age re-appeared on the banks of
 “ the Tagus, with all the splendor which adorned her birth in France
 “ and in England.” It was this spirit that supported them to persevere nearly seventy years in their attempts to find a way by sea to the East Indies; the discovery of which has been of such important consequence to science and commerce. The age of Edward the Third was the most brilliant period of chivalry in England; it displays a multitude of objects, which must even now be surveyed with admiration, and which we might search for in vain in those which preceded, and in many which followed it. The spirit of chivalry, indeed, is not to be regarded in all its parts with a moral, but only a political and relative approbation. It may be highly serviceable in an age of barbarism, or in a commercial period in which luxurious manners and selfishness threaten to become universal. In each, it is a remedy to some, and a counterpoison to others of its prevailing vices.

services,

services, as our freeholds, to convey them over to some neighbouring baron, who engaged to grant them back again to the former owner, liable to the feudal services of his barony; that thus the former independent proprietor, by becoming a vassal, might acquire a right to the protection of his new lord. Those services he therefore voluntarily engaged in, because what he gave was not of the same value to him as what he acquired: and they were undoubtedly of the kind called privileged or definite: he certainly did not thereby submit himself to a state of villenage in gross.

IV. INSURRECTION UNDER WAT TYLER IN ENGLAND, IN THE REIGN OF RICHARD THE SECOND.

THESE events in France must in all probability have produced the first party of *Alarmists*, who then held out the danger of these principles getting footing here; and it is also probable, that there were many English in that age, some from that levity which derides all troublesome foresight; some not favouring their ultimate success, but desirous to promote their own oblique purposes by their temporary extension and prevalence; and others who desired to see them adopted in practice to their utmost extent; who treated the melancholy declamations of the Alarmists of the Fourteenth Century, on the calamities to be apprehended at home, from the effect of the insurrection of the antient Jacobins or Jacquerie upon the minds of the populace, with the ridicule the same apprehensions meet in our days: the verification their predictions received from the event, the politicians described above do their utmost to give to those of their successors; and they may succeed. In the time of the Jacquerie, Edward the Third sat upon the Throne;

Throne; and the vigour of his administration, and the popularity of his brilliant reign, must have been a great restraint upon those principles from bursting forth into present action : but the distemper of the minds of the populace, though latent, was probably spreading during its lowering decline. It broke out in the minority of Richard. Seditious orators were not then wanted to propagate the sacred duty of insurrection ; the name of one of them is handed down to us : John Ball, a priest, went about the country, inculcating on his audience “ the equal right to liberty, and to all the goods of nature ; the tyranny of artificial distinctions ; and the idea of primitive equality*.” To borrow a metaphor from a modern writer of great eminence, it was thus a mine was dug to blow up civil society ; a poll tax had been granted by parliament, and an insult offered by an abandoned collector to the daughter of a blacksmith, set fire to the train which led to it. The populace of Essex, Kent, Hertfordshire, Sussex, Surrey, Suffolk, Norfolk, and the counties of Cambridge and Lincoln, immediately flew to arms : and before the Government had the least warning of the danger, the disorder had risen beyond controul or opposition : the most audacious and criminal of their leaders assumed the feigned names of Tyler, Straw, Carter, or Miller, “ by which they were fond of denoting their mean origin.” Thus those who borrow their principles from France now borrow from the same country the gross name of *Sans Culottes*. In all insurrections of this character the populace are constantly actuated by one motive, “ the purpose of levelling all mankind :” the means too by which its end is pursued are always the same : “ the insurgents committed the most

* Hume's Hist. vol. iii. p. 7, 8.

“ outrageous

“ outrageous violences on such of the Nobility or Gentry
 “ as had the misfortune to fall into their hands ;” and
 “ favoured by the city rabble they broke into London ;
 “ ****murdered the Primate, the Chancellor, and the
 “ Treasurer ;****cut off the heads of all the Gentry whom
 “ they laid hold of ; expressed a particular animosity
 “ against the lawyers ; and pillaged the warehouses of the
 “ rich merchants :” even the Widow of that revered hero
 the Black Prince could not escape from their insolence
 and outrage ; “ some of them, to shew their purpose
 “ of levelling all mankind, forced kisses from her * :”
 “ whose head they also broke in a tyrannizing frolick †.”

“ Is the fable warrior fled ?

“ Thy Lord is gone—he rests among the dead. GRAY.

This event being recorded in our own History, I shall be more particular in my observations upon it.

THE construction and mode of working that machinery which is to disorganise Society we see was not then totally unknown : and the means to diffuse constitutional information employed in that period were the same as are now in practice, if we except the press, that most powerful engine to promote the best and the worst ends ; and on the balance, for a certain period after the commencement of the attack, a formidable addition to dangers of this kind. The minds of the populace were regularly prepared for insurrection in the manner described ; and the principle of equalizing, then copied from the French, was the predisposing cause of this unhappy and sanguinary commotion. The criminal insolence of a tax-gatherer, repelled

* Hume's Hist. v. 3. p. 7, &c. † Foulis, Hist. of Plots, p. 129.

by an immediate murder, was the occasion or premature signal only, which brought this spirit into action, not the primary origin of the series of events which then commenced.

THE principles of sedition preached by John Ball have a singular similitude to those now solicitously propagated. We are able to trace in them the great outline of those laid down in the advice of Mr. Barlow to the Privileged Orders. This is evident in the account given of the former from Hume. It is worth the while only to instance particularly one of these points of resemblance, which is curious and striking. Mr. Ball, in his Homilies on the Rights of Man, preached on "their equal title to all the goods of nature;" and Mr. Barlow, that "every man is born with an imprescriptible claim to a portion of the elements, which portion is termed his birthright *." We see both of them lay down the same doctrine in the same guarded manner; half holding forth to the populace, and half keeping back, an expectation of an equal division of lands. This Century had not the honour of first discovering this fine principle of tribunitary morality, in the classical records, or of the re-invention of it.

THERE seems to me little reason to ascribe the miseries in which this insurrection involved England, at that particular point of time, to any other cause than the contagion of the principles which had prevailed in France some time before. I shall, however, state and consider what may be said against this.

* Second edition, p. 111.

MR. HUME joins another with it, on the authority of Froissart, " that personal slavery was then more general " in England, than in any other country in Europe." He himself, in some places, has censured that Writer, as falling into many errors in point of fact; but there is one circumstance which shews, that the number of slaves (by which I suppose villeins in gross * to be meant) must, in that age, have been very greatly reduced. The influence of the clergy over the minds of the people had, at that time, suffered a shock which it never recovered. On this something more particular will be said hereafter †. Hence the greater part of every Revolution they were to bring about, in the relative state of the different classes of Society, had been already effected. Now the total abolition of this species of slavery was completed in England, and that by the exertions of the clergy, before the Reformation; for Sir Thomas Smith, who was Secretary to Edward the Sixth, says, that in all his time he never knew any villein in gross throughout the realm: " for he tells us, that the holy fathers, monks, and " friars, had, in their confessions, and especially in their " extreme and deadly sickness, convinced the Laity how " dangerous a practice it was for one christian man to " hold another in bondage; so that temporal men, by " little and little, by reason of that terror of their consciences, were glad to manumit all their villeins ‡." It seems, therefore, reasonable to suppose, the effect of

* Transferrable, by sale or deed, from one owner to another,

† Appendix, No. II.

‡ The clergy esteemed it despoiling the Church, to manumit their villeins regardant, of whom some few were left at the Reformation; but the question is here of villeins in gross, or the extent of personal slavery.

their exhortations being at all times proportioned to their ascendancy over men's minds in general, that they made the most rapid progress in this work, and had performed the greatest part of it before their influence was much declined, or before the accession of Richard the Second: nor are we to ascribe those great insurrections to personal slavery, at a time in which it was greatly diminished, which are not to be found in the time it was most prevalent.

FURTHER, to shew that nothing is contained in this instance, tending to demonstrate that a calamity of the like nature is probable at present, it will be said, that 'these were the excesses of a barbarous age, but that the 'diffusion of light in Society has humanized the manners 'of every class of mankind, and that this is particularly 'the case of England at this period; and although in the 'Fourteenth Century, the populace both here and in 'France were equally involved in darkness, and led 'with the same facility into atrocious crimes; that the 'lower orders in this kingdom have, in the former of 'these respects, and consequently in the latter, in this 'age, a relative superiority over their neighbours, which 'they were by no means entitled to boast of in the age of 'Edward the Third. The conclusion of this is obvious: 'that a danger so probable then as justly to have been the 'subject of alarm, must be totally visionary now.'

BUT it cannot be admitted that the populace of England were then so totally involved in ignorance as this objection supposes; for whenever a certain portion of knowledge on any one subject becomes generally diffused

among the upper classes of a State, their inferiors will soon become possessed of that part thereof, which their relative situation permits them to acquire. The increase of the information of the former becomes disseminated among the latter, by the middle class, conversing ordinarily with both. And the feudal system tended to insure this, in the age which is under consideration; not only by the frequent attendance of the vassals in the courts of their Lords, but by the multitudes of retainers which their hospitality, their ostentation, or their love of war, induced them to live surrounded by. These originally taken from, occasionally mixing with, and ultimately returning to the body of the common people, diffused among them the outline of every new opinion, as soon as it was established. The propagation of new ideas throughout the whole of Society, was not much less rapid then than it is now; much of the effect of the discovery of printing being counterbalanced by the change of customs in this particular; and thus perhaps the feudal system contained within itself the seeds of its own decline.

Now from a detail of numerous circumstances preserved to us in history, it appears, that the upper classes in the reigns of Edward the Third and his successor, were far advanced in general knowledge, and particularly in that of political, commercial, and constitutional principles: infomuch that it seems that the nation was, in these respects, in a retrograde state, from the age of Edward the Third to the accession of the Tudors, and that it did not re-acquire its former point of advance upon the whole, until the reigns of the first Scottish Princes*.

* Appendix, No. II.

IN the history of France for the same period, I recollect none of these circumstances, and I think it would be in vain to search for them: for the greater part of these improvements were most probably so early called forth in England, by the institution of a House of Commons relatively new, and then beginning to produce its effects on the spirit and ideas of the nation.

OF this knowledge, according to what is observed above, every class of the nation must have imbibed its share, according to its powers of absorption: the genius of the age prevented its being confined. If, therefore, we compare the English populace of that period with that of France, as great a superiority at least must then be allowed to them in useful knowledge as can be admitted now: but the event shewed, that the difference in that age was not enough to protect this nation from the experience of many, and the hazard of all the miseries which had recently overwhelmed France. And as that difference is not increased, it is a folly which tends to the last extremity of national ruin, to rely upon it more firmly now.

THERE is another point of view likewise, in which the insurrection of the Fourteenth Century requires consideration. The late subversions of the Governments of Holland and of France shew us, that there is almost as much to fear as to hope from regular troops: and if we look to a force on which we can place unlimited confidence, in opposition to such an insurrection, at this juncture; from the revolution which has taken place in the state and manners of Society, we shall see that force greatly weakened. In the feudal ages, the upper and opulent classes

were

were chiefly military men. Hence, though the encounter was terrible, they finally prevailed, by the advantage of discipline and military habits. On a late occasion, from the decay of them, we have seen the gentry and nobility of France unable to make a stand, and swept away almost without resistance: a country where the education of a camp was much more general among the superior orders than in Britain. Admit now the chance of insurrection to be less than here stated, the danger to be apprehended is from the chance of attack, and the weakness of the means of defence jointly: if that chance decrease, and the strength of defence decrease in the same proportion, the danger of the State remains still the same.

5. OTHER INSURRECTIONS TO ASSERT THE RIGHTS OF MAN.

SOME other insurrections will be here mentioned, that a general conclusion may be drawn from the whole of them; but with little detail of their particular incidents.

IN the feeble reign of Henry the Sixth, Cade raised a formidable commotion, under a pretence of a Reduction of taxes, and a Reform in the State; but no trace of the Levelling principle is to be found in his Declarations or his conduct: an article in his Manifesto in favour of the old against the new nobility, seems even in the most diametrical opposition to it, and he is generally esteemed to have been an instrument of the Duke of York. This is noticed, as the only instance I recollect in the History of this country of the more dangerous insurrections of the populace, which was not founded on the doctrine of the Equality of the Rights of Man.

AFTER

AFTER the death of Isabella of Castile, in 1503, the Regency of that kingdom was disputed between her husband Ferdinand of Arragon and the Austrian Princes. During the following sixteen years, a kind of turbulent Interregnum prevailed in Spain, with intervals of regular government. The Royal power being by these vicissitudes weakened, a democratic faction arose, considered under the title of the *Germania*, the Brotherhood, or Association of the People. It involved Spain in discord and bloodshed for nearly two years. The Progress of Civil Society toward anarchy in that time in the kingdoms of Spain, was nearly the same as what we recently saw it in France in the same period: it was advanced so far, that two clothworkers and a tanner ruled the debates of their Third Estates*.

To the stern government of Henry the Eighth in England, succeeded the feeble minority of Edward the Sixth, and the feeble Protectorate of his uncle the Duke of Somerset, continually traversed by his factious brother, and his intriguing successor. Popular commotions arose in several parts of the kingdom: some insurgents took arms on account of religion, others were what Baker calls "Commonwealth Mutineers." The object of the three greater bodies was to form a junction: one of them declared for no King, the destruction of the nobility and gentry, and holding a *Parliament in commotion*, which should begin at the South and North Seas of England. Another for no Gentry, no Lawyers, no

* Further particulars of this insurrection are given in the APPENDIX; these disorders having passed into Germany, and thence hither.

Judges, no Justices, no Inclosures *. It was with difficulty and great exertion that two of these bodies were separately conquered, on which the third dispersed. If the projected junction had taken place, it would most probably have involved the whole kingdom in a desolation equal to that in which the Jacquerie involved France.

ONE consequence is plainly deducible, from a view of all these accounts conjointly, that the executive power of the Sovereign can never be both suddenly and greatly weakened or relaxed below its accustomed tone, without exposing Society to the hazard of that most dreadful of calamities, the tyranny of Levelling principles, or those of Equality: for the latter term bears no other sense in the conception of the multitude, and is intended to convey this to them, by the great majority of those who affectedly dwell upon it. This spirit is ready to break out on all such occasions: and this we have seen it do when John of France was a prisoner to a foreign enemy; when Charles the First and Louis the Sixteenth were prisoners to their own subjects; during the feeble and distracted minorities of Richard the Second and Edward the Sixth, and in the effective Interregnum following the death of Isabella of Castile.

ALTHOUGH this is the most permanent and general of the irregular passions acting upon the minds of the populace, it sometimes gives place to others; which, if they happen to be predominant at a time when the Royal power is suddenly diminished, the former will not appear in action, but the latter will

* Baker's Chronicle.

produce the same effect. Thus in Ireland, when the vigorous, and in some instances perhaps the arbitrary, administration of Lord Strafford was removed, and it became evident that Charles the First was a King in name only, and that his government had very little effective power; the long suppressed resentments of the Irish against the English, and their ferocious bigotry, broke out in the Irish Rebellion and Massacre. This seeming exception gives an indirect but strong support, to one of the propositions on which the preceding conclusion is founded. But to confine ourselves to the principles of the "Commonwealth Mutineers."

HENCE it may be laid down as a general fact, that when the power which keeps the lower people in subordination, be it equal to, or more than the degree every good man would wish to have permanently established in a State, be of a sudden greatly diminished, insurrections of this kind will be the consequence of it; for if it be justly said, that Governors are always endeavouring to increase their coercive power, yet when we see it for a considerable term of years stationary, notwithstanding that perpetual effort, we know that the spirit of resistance of the People in that generation is precisely equal to the whole of that power. Diminish the latter greatly, and the elasticity of the former will cast the remaining weight entirely off. Such diminutions must be made by degrees, and an attentive and accurate administration of the powers left, will supply the place of the ruder compression that is removed, until the people become accustomed to enjoy their new degree of liberty with temperance: then it becomes capable of a second further extension, and not before. In the

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progress.

progressive growth of the British Constitution, we see an illustration of this : we may describe it in the same terms in which Tacitus describes that of the Roman Empire from its origin to its highest point of grandeur, *Ostingentorum annorum fortunâ & disciplinâ compages hæc coaluit*—This noble edifice was erected by the fortune and virtue of eight hundred years. Every course of masonry was suffered to settle and consolidate as it was carried up. The period, indeed, was long : but in ages of barbarism and semibarbarism, this work will, and perhaps ought to proceed, very tardily.

It follows from all the instances given in this Section, that offensive popular Associations, on principles called those of the Rights of Men, have always been attended with the most tragical consequences ; and it must be added, that this has not arisen solely from accident, or the circumstances of the times in which the experiment has been made, but from the principle itself, which is contrary to the legitimate consequences of the laws of human nature. It rests to be shewn, that on whatever ground a strong Offensive Association shall at this time begin to act, it will be presently lost sight of, and this substituted in its place.

SECTION VII.

ON OFFENSIVE ASSOCIATIONS, THE OBJECTS OF WHICH
ARE LIMITED,

‘ THE objects of these Associations,’ it will be said,
‘ were extreme and mostly indefinite. Had their Leaders, at
‘ the beginning, laid down certain ends or limits, the cala-
‘ mities

' mities above described would never have happened; or, at
 ' least, the greater part of them would have been avoided:
 ' their operations would have ceased as soon as these fixed
 ' points had been attained: and, to reason of the present
 ' time—Suppose the worst: suppose even that there should
 ' exist a Party in Great Britain, with whom the tie of al-
 ' legiance is of no force, and that they might be looked
 ' upon in the same light as a body of foreign enemies
 ' within the realm; yet from foreign enemies we should
 ' entertain a full expectation of peace, or cessation of ho-
 ' stilities, on our performance of such conditions as they
 ' propose and we accede to. And shall we entertain of
 ' Englishmen, doubts that would be injurious to a fo-
 ' reign enemy? Can we think so ill of our country-
 ' men? Have they rejected every principle analogous to
 ' the Law which binds hostile nations, which can preserve
 ' the good faith of *hostile parties* to each other?"

It may be the belief of the majority of the original
 Leaders of an Offensive Association, that they ought, and
 it may be their determination that they will act up to
 their engagements; but if they be at the head of a Party,
 combined on the principles taught as the Rights of Man,
 such Leaders may *bona fide* make the attempt to act up
 to their original Manifesto; but the probability runs very
 strongly against their being able to effect their purpose:
 for whatever principles they may set out with, the ex-
 treme and most violent that their lower adherents shall
 have imbibed, prior to their Association, or that they
 shall pick up in the course of the struggle, will most pro-
 bably be those ultimately acted upon.

I SHALL here show the reality and magnitude of this danger, from the examples of the most enlightened nations, and in their most enlightened periods. It must be on this occasion supposed that it will not be disputed, that when the heads of a Party declare that they will preserve any one part of a Constitution, in its existing state, they thereby impose limits upon their own operations; and that as much reliance may be placed on those they impose upon themselves in the course of action, as if they had laid them down immediately before they began to act. To attempt to distinguish between the validity of the two securities, would be to make a distinction without a difference, unless it be contended, that when the Leaders of such a Party have begun their series of measures, they lose entirely the power or the wish to observe their engagements; but an opponent who shall rest upon this concedes the whole argument.

THE object of Mr. Fox's Association is clearly limited. It is to continue in force until two Acts of Parliament named therein be repealed; and the subscribers, as Associates, are to pursue no other point. But we have had the calamity to see a very recent and terrible example of the failure of an engagement, defined with as much precision as that now held out to us, and which was contracted with a more awful solemnity. It was on the 7th of July 1792, that M. Lamourette, Bishop of Lyons, moved in the National Assembly, "That all those who hold in equal detestation a Republic and two Chambers, and who wish to maintain the Constitution as it is—*Rise!*" The words were scarcely pronounced, when the whole Assembly, by an instantaneous impulse, rose from their seats. The two parties advanced and embraced

“ braced each other, and solemnly protested their adherence to the Constitution *.” It is of consequence to add, that this motion was made “ at the moment M. Brissot ascended the tribune to pronounce a discourse on “ the means of securing the State against all its enemies.” It was at the very crisis of the Revolution: the army of the Prussians and Austrians were advancing in France: no adequate force was prepared to oppose them; and when such a man brought forward such a discussion at such a time, no doubt can be entertained that the Leaders and the body of his Party were present; and all present concurred in this solemn Protest. It was on the 10th of the following month the Tuilleries were attacked, and the King deposed. Brissot, Louvet, and Barbaroux, in their public speeches and writings, asserted that this Revolution was effected by them, and their associates, to establish a Republic: and that the day originally fixed on to carry it into execution was the 29th of July †, twenty-two days only after this public declaration. Now if twenty-two days was a space of time long enough for arranging the plan of the insurrection, and making the necessary preparation for it, the Brissotine Party must almost instantly have gone from the making this Protest to the direct violation of it. If the period were so short that they cannot be supposed at first to have expected to be able to bring about so great an event, in so little a time after the first conception of it (which seems almost certain), then the conspiracy existed at the time this solemn engagement was entered into; and the only object of the Republican Conspirators, in taking the Protestation, was to cast a necessary veil for a few days over those measures

* New Annual Register, 1792. Hist. p. 158.

† Moore's Journal, v. 2. p. 614.

they were pursuing, which brought such dreadful calamities upon themselves and their country.

THUS the Declaration against Republicanism was violated: the remaining half of the Protestation continued un infringed some little time longer. The National Convention, containing many of the members who had taken this Protestation, sat for a short and sanguinary period as one Assembly; the members whereof were chiefly occupied in mutual proscriptions. It then dissolved one third part of itself, filled up the vacancy, and divided into two Chambers. Such is the lesson recent experience holds forth to us, on the faith that is to be put in the engagements of this kind, solemnly entered into by the Leaders of a People, enlightened by the torch of Philosophy, kindled at the sacred and eternal fire, on the altar of Liberty and Equality. These men, these means, this act have been defended—Defended did I say? The enthusiasm of the Republicans of England has applauded them beyond every example the annals of public virtue present us with, in ancient or in modern ages. They will be admitted parties to Mr. Fox's Association; and become, by their subscriptions, the guarantees of its limitations. And will not these idolizers of the violation, and the violators of one of the most solemn compacts on record, emulously follow the example they adore? At the commencement of this year, a second solemn farce, the same in form, but opposite in its engagements, was exhibited at the commemoration of the beheading of the King; the members of the two assemblies swore detestation to Royalty. This oath certainly cannot be supposed to have any tendency to accelerate or retard its restoration.

WE now come to the examples of the insufficiency of these limiting clauses contained in our own History : but to this the following observation must be premised, on the nature of limitations in general. The object of an Offensive Association may be to effect alterations in the State, or in Religion, severally or in both conjointly ; and, in the two first cases, the Associators may pledge themselves to the entire conservation of the one, but fix no limits to the extent of the alterations they propose in the other. Thus an Association may refuse to lay down any limits to the alterations they wish to effect in the State, but by express declaration engage to make none in the national religion. This was the state of obligation in which the Leaders of the Long Parliament and their adherents placed themselves before the Civil Wars commenced ; for it has been seen before, that they refused to define the extent of their proposed alterations in the State, on the King's requisition ; and that, in the justification of their conduct and views, they never referred to that repository of law and constitutional knowledge, the works of Sir Edward Coke : their object in the State was therefore indefinite, and as such has been before considered : but this Association was strictly limited with respect to changes in religion ; the fidelity with which they adhered to those limitations will presently be examined.

THOSE who at that time endeavoured to bring about alterations in the existing Laws, inimical to the constitution of its government*, drew large

* The period when this accusation was with certainty applicable to the Parliament of 1640 has been before fixed. It was when they demanded the military force of the kingdom should be put into their hands by law, after they had obtained a Constitution of Government more popular than that delineated by the Bill of Rights.

parts of the nation to associate with them; having previously defined, in express terms, certain points thereof, which they would maintain and defend in their existing state. The conditions of such Associations shall be here produced, and the entire breach of them shewn; and, from a comparison of the manners and morals of the nation at that time and the present juncture, it will be likewise proved, that before the events to be related took place, the apparent danger of a flagrant violation of these limits, in the former period; was much less than that of a like breach of the restraints the Associators of the present day have imposed upon themselves.

It was between the 2d and 5th of May 1641, that the House of Commons entered into a vow and Protestation, "in the presence of God, to maintain the true Protestant Religion, *expressed in the doctrine of the Church of England* *." The Lords concurred with them in taking this Protestation: but in opposition to that House, the Commons, by their single authority, ordered it to be subscribed by the whole nation, under the penalty, to such as should refuse, of being declared unfit for any office in Church or Commonwealth, and being deemed malignants and disaffected †. The opposition of the Peers to the general subscription, shews it to have been brought forward by the most active opponents of the Court.

* Coke's Detection, v. 1. 132. Hume, v. 6. p. 348. Coke, p. 156, repeating the same words, adds, "which passage Mr. Whitlock, in his Memoirs, p 43, has left out." It is however cited in a public declaration of the University of Oxford, "Reasons, &c. against the Covenant 1647," June 1, page 6.

† Baker's Chronicle, p. 508.

THIS engagement became at length an obstacle to the Parliamentarians, when they wanted to obtain the assistance of the Scotch, in the depressed situation to which they were reduced. In September 1643, or in little more than two years, they subscribed the Solemn League and Covenant, whereby they engaged to establish Presbyterianism in England. Vane had, indeed, the address to have the Article on this subject drawn so, that it did not absolutely bear the sense the Scots put upon it: but the Parliament executed it in that sense, and the concurrence of both the contracting parties thereto, establishes what is to be received as the meaning of the ambiguous phrase he inserted.

THIS engagement the Parliament subscribed themselves, and they ordered it to be received by all who lived under their authority. It may be pretended, that this change was justified by a change of religion in the body of the people; but this is a position which cannot be supported. It is not digressing from my purpose to shew this, for it proves that a cabal of leading men may draw a great part of the nation into an Association with them; one condition of which shall be, to preserve inviolate some institutions for which the people entertain the highest reverence; and obtaining political power by this means, the Junto, or a part of them, shall convert that very power to effect the abolition of what they originally engaged to defend.

AT the meeting of the Long Parliament, the Puritans were by no means the majority of the nation*. There

* Hume, v. 6. p. 302, 303.

was not a less proportion of the Sectaries in the House of Commons than in the kingdom at large: and the Protestation in 1641 could not have been voted by an Assembly where the majority, or even a numerous and active Party were of that description. The doctrine of the Puritans had taken root before, and its followers were increasing; but when it attained its utmost growth, under the shelter of that Party who began as reformers, and ended as subverters of the legal Constitution, they still continued to be a minority in the nation; and the Covenant was imposed by force, or the fear of force, upon the majority of the people. Of this we have the best cotemporary evidence, that of the Dissenters themselves. Before the commencement of the Civil War, it was one of their leading tenets, that the individuals of every congregation had, *jure divino*, a right to elect their own minister; but after they had begun the operation of ejecting the episcopal Clergy, the Assembly of Divines found it necessary to give up the "divine right of election:" at which time, Emanuel Knutton expresses his fervent gratitude to "our blessed Parliament and reverend Synod," who took "the care to send zealous and godly ministers "to" vacant parishes. The necessity of the concessions of the Assembly, and the joint care of that body and of the Parliament, is clearly shewn by Needham, who tells us, that if the people had then been permitted to chuse their own pastors, "the godly and well-affected would "have the least stroak in the choice." And he adds, that "if there be no other supplies made for parishes but "such as the *parishioners cordially reverence and affect*, the "man to be chosen in most parishes would be, a man "in a *surplice, with a common-prayer book, &c. **" Hence

* Great Accuser cast down, p. 40, 43. See Clergyman's Vade Mecum, preface, p. 63, 64, 65. 3d edic. 1723.

we see that the Presbyterian discipline was imposed upon the majority of a reluctant people, by a Party who had drawn them in to associate with them, by taking a solemn "Protestation, in the presence of God, to maintain the religion expressed in the doctrine of the Church of England."

THE Protestation, as we have mentioned above, was superseded by the Solemn League and Covenant, the preamble of which professes all regard to the honour and happiness of the King's Majesty and his posterity, and the true public liberty, safety, and peace of the kingdoms. And in the body of it it is declared, that the parties thereto had "no thoughts or intentions to diminish his Majesty's just power or greatness." Thus the former limits to the projected reforms securing the national religion were removed, but new ones were entered into relating to the civil state, to preserve the just power of the King undiminished.

THESE were no more adhered to than the former; every Party to bring about an alteration in the Law by their personal interposition*, contains men of three descriptions; its moderate members, its warm members, and its fanatics. In the period of our Civil Wars, the power had early shifted from those of the first to those of the second description of the Parliamentarians, and was

* A Party, or section of a Party, is said personally to interpose in the State, when they assume functions contrary to the spirit of the laws; as when they attempt to overawe the Legislature, or assume legislative power; or when a constituent part of that power assumes to be the whole. This is opposed to their action or interposition, according to the customs or Letter of the Constitution of Government.

ultimately seized by those of the third. We have seen the same progress of the devolution of power take place in the French Revolutions : and such transitions are not to be looked upon as singular incidents attending these two turbulent periods, but as general consequences occurring in every such crisis of a State : and in both these cases, those Leaders into whose hands the power successively fell, never persevered any longer in the preservation of the limits they had themselves laid down to their enterprize, than until it became their interest to pay no regard to them. The only use such stipulations seem to have served is this : they enabled their projectors to acquire or retain the immediate possession of power ; and by that power they compelled a reluctant people to follow, or to submit to them in their successive violations of their compacts.

As the terms of the first Association “ to maintain the true Protestant religion *as expressed in the doctrines of the Church of England,*” were fulfilled by abolishing them by law, and by the introduction of the doctrines of the Church of Scotland, instead of them ; so the Solemn League and Covenant next entered into, professing in its preamble all regard to the honour and happiness of the King’s Majesty and his posterity, was fulfilled by those, into whose hands the military and civil power of the League had now fallen, by murdering him, and expelling his family out of the kingdom. Europe then first beheld the fatal example of regicide, committed with the mockery of the forms of law, and by the establishment of an *ex post facto* jurisdiction. The first example of a Revolutionary Tribunal is discovered also in the High Court of Justice which sentenced the King. Cromwell continued the

the practice in cases he called Treason, superseding the trial by jury, to the preservation of which the parties to the latter Association or Covenant must be conceived to have sworn, as a leading part of the "true public liberty."

THERE is but one step further to go in this account. A Party may begin with limits, to be violated the first moment an iniquitous interest prompts them so to do, and end with proscriptions. Mr. Hume has observed, that had the Restoration been postponed a little longer, "there was just reason to dread all the horrors of the ancient massacres and proscriptions *," Coke has informed us, that an accusation was brought against the Royalists, which cannot be supposed calculated for any other purpose, than to prepare the way for such an execrable measure, and to shelter it under a verbal justification after it was executed. When the degradation of Richard Cromwell had taken place, the Council of Officers at Wallingford House published a Remonstrance, in which they charged the Malignants or Royalists, "that they had printed lists, and marked for destruction the godly, especially the King's Judges †;" and in an historian of that time, we find that it had been debated in a Council of War "to massacre and put to the sword all the King's party. The question was carried in the negative but by "two votes ‡." In Oliver's Parliament, which met

* Hist. v. 6. p. 339.

† Coke, v. 2. p. 79.

‡ Walker's History of Independency, part 2. p. 30. From Sedgwick's Justice upon the Army's Remonstrance. I copy this from a quotation. I conclude the Council to have been that held at Wallingford House.

in 1656, a Bill had been brought in to decimate the Royalists*.

WHEN the history of the successive French Revolutions shall come to be carefully examined, it will be supposed very probable, that many of the wounds which have been inflicted upon France, were made by daggers forged in this country. In the following case some doubts may be entertained. The project to establish a single National Assembly, instead of two Houses, was attempted by the Commons before the Civil Wars, but they did not succeed in it. Foulis informs us, that the Commons "had another mode to drive on their designs of altering the Government of England. They put several agitators to draw up a Petition, that the Peers who were agreeable to them would sit and vote with the Commons, to the intent to have but one

* Thurler's State-Papers, v. 6. p. 20. 37, 38. Many will think, perhaps, such atrocious plans were never agitated in Britain; the following well-authenticated anecdote, joined with the manner in which it is related, shows this supposition not to be founded. It has been before noticed, that the father of Coke the historian was a leading Member of the Long Parliament. He was expelled the House as a Malignant, and afterwards engaged in a plot against the Protector, to which the brother of the Writer, "young, (about 19 years old,) raw, and of little experience," was privy. The father and the youth were both seized at Yarmouth: the latter "confessed all he knew to the Governor: it seems they had put burning matches between his fingers;" (v. 2. p. 55.) that is to extort evidence from him against the life of his father. But this fact Coke passes over without the least observation of its being a tyrannical cruelty, either singular in itself, or even when joined with the consideration of the rank and youth of the person: if it had been extraordinary in either of these respects, a Writer would have noted that circumstance, when practised upon his brother.

" House.

"House *." This Petition was accordingly framed, and by the Commons it was presented to the House of Lords. This might be the remote origin of the National Assembly, or both the English Commons and the *Tiers Etat* in France might have poached for a precedent in the Memoirs of the Jacquerie.

THERE are desperate diseases, certainly, in the political as well as the natural constitution, which require and may justify very hazardous applications: but these are to be attempted only when it is evident that the case will terminate fatally, before a course of ameliorating alteratives can produce their effect. A vigorous remedy may also at one time be applied with little hazard; at another that hazard will be much increased. We must always endeavour to form a true estimate of the *value in use* of our objects, stripped carefully of those gay accoutrements and tinsel with which imagination dresses out all its favourites. This value we are then to combine, with the probability of attaining our object, assigned as truly as we can. This result is, what a disciple of Simpson or De Moivre would call, the expectation of gain from the experiment. We are then to view the real magnitude of the evils this object may draw after it; examining them with a mind equally clear from all prevention. This amount also is to be combined with the chance of their happening, to find the expectation of loss; the two expectations are to be balanced against each other, and we are to determine in favour of the greater, unless any evil may follow from the failure of the first attempt. In that case, having estimated its mag-

* Foulis Hist. of Plots, p. 82.

itude and chance, or what is above called its expectation; that expectation will be also a legitimate deduction from the former balance of gain, if any had been found.

To give an example of this process:—In a Society like our own, let the success of an assigned alteration in the State be extremely probable; the advantage very great: let there be a small chance that the progress of alteration will not stop at the acquisition intended, but that it may go on until a state of anarchy takes place; and let it be proposed to determine, whether this alteration is to be attempted. Here we must reason thus: Anarchy is the arbitrary power of all over each individual; or the tyranny of all but one over every one. It is an evil in Society, like annihilation to the individual, infinite; and the chance of coming into this state being finite, though small, the expectation thereof, or the quantity of evil to be set against the good, exceeds in magnitude any finite good which can be assigned*.

* The despotism of *one* over all, may undoubtedly be likewise denominated an infinite evil in Society; and no evil to arise from the hazard of life, in *fair war*, is equal to any individual's private share thereof. But mathematicians have made a distinction in the orders of infinities; they have their first, their second, and higher orders. While the tyranny of a Despot is of the first or lower order, that of Anarchy resembles the second. As I have borrowed their mode of argument here, and they are the legislators of their own terms, they must be used. It might otherwise have been said, that the despotism of an individual is an evil of an indefinite magnitude; supposing the Tyrant only to will, and his satellites to be his passive instruments. Yet, in this case, let there be 100,000 inhabitants in a State, each of them has the unlimited will of one only to apprehend; but let the Society be flung into a state of anarchy, every man now will have 99,998 tyrants more.

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BUT to return to the history which led to this train of general reflection. These temperate men, who saw the necessity of a great amelioration of the system of existing Government in 1640, in order to restore to the Legislative Estates the actual exercise of their legal functions, though they had perhaps the most efficient influence in impressing the first movement toward that end, found themselves, from a concurrence of various causes, actually not able to stop it, when it was gotten even beyond that point at which they wished things to become stationary. When the inclination of a plane exceeds a very small degree, a heavy body, to which the slightest revolutionary movement is given, is urged along continually, as it moves, by an accelerating force, which soon becomes indefinitely greater than that which was applied at first to put it into motion; and nothing will stop it at the limit originally determined for its progress, but some firm obstacle placed before-hand, at that point of the line of its direction. And, in any tolerable system of Government, men ought to be absolutely certain that they shall be able to stop at such an assigned point, before any alteration be attempted. If more than a little be required to be done, the work should be subdivided, and undertaken at intervals; the first step in the progress may be so taken as to ensure some little facilities to the second, but not to precipitate it. To use for a moment our present political neologism, the Parliament in 1640 accelerated that revolutionary movement which they ought to have restrained; the ferment of the people, which originally perhaps required tempering, was increased by every art. They greedily acquired a power too great for the weight to be removed; and they were not masters of its effects. When a quantity of masonry wants to be

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picked out of the fabric of any Constitution, in order to have the place supplied with better materials, a battering ram is rather too potent an instrument to be used to effect the removal: it will shake the edifice, and may reduce it to a heap of formless ruin. The old materials must be removed with care, and the parts left unsupported must be carefully propped until the vacancy be filled up.

THE Members of the Commons who sat at Oxford, and who voted under compulsion at Westminster, may be looked upon, when contradistinguished to the remainder, as one party in sentiment, and as forming an undoubted majority of the original Assembly. Hence even if every one of them had voted freely in the places where they sat, and upon the same question, that majority had lost the possibility of expressing a legal will. But the Legislative Assembly in France, in the last period of its existence, had been, by their own fanaticism, and the crimes it gave birth to, forced to work in chains to demolish that edifice, that glory of philosophy! that pride of enlightened Europe! the first Constitution.

THE ruin brought upon Britain by the Leaders of these Associations paying no regard to their limits, was almost extreme. The observations on the hazards this country has run from Offensive Associations, in other instances, have, in this Tract, always been followed by an inquiry, whether there was anything in the manners and character of the people, previous to those several calamities, which had a more alarming appearance of danger than can be observed at present: and I shall close this Section with an inquiry, whether, before the Civil Wars, from the circumstances

cumstances of the times and the moral character of the people, any more threatening appearances might have been discerned, of a Revolution destroying the Constitution, and terminating almost in the despotism of Anarchy, than have been of late years and are at present, plainly seen among us.

In both periods we see Revolutions destructive to the Constitution, attempted under the pretence of a reform, (the necessity of which exists not in one case, and had ceased in the other by exciting fanaticism, religious or political. We have seen either species, separately, capable of producing the same effects upon the populace; that is, to bring all their ferocious passions into action: consequently, if they be stimulated by a mixture of both, as was the case in the last Century, it cannot produce a greater effect than either of them simply; as, for instance, political fanaticism; as each, separately, will occupy the active powers of the whole mind, and both together can do no more.

To consider next the real or supposed grievances of the two periods.—Such grievances must be, either violations of right, or privations of gratification by State charges, or mixed. By the Agitators of the last Century, it was impressed on the minds of the populace, that many of their legal rights were violated: and, as it always happens in such times, they equally believed what was truly and what was falsely alledged on this subject. Stronger representations are now made, and a more extensive circulation given them. The great majority of the populace are taught, that they are defrauded, not only of many of their legal rights

as subjects, but of a great mass of their natural rights as men ; and they give the same implicit belief to their demagogues now, as their ancestors did in the last Century ; and the great amount of the taxes at present, is as favourable a subject for inflammatory declamation, as the illegality of their imposition was then.

LET us now enter into a comparison of the qualifications of the Agitators of the two periods for their respective tasks. The operations of those of the last age resembled the attacks of an undisciplined multitude, comparatively without order or concert. Their mode of action is now reduced into a science ; and they are cantoned over the whole country, the chiefs of a hostile State within a State, formed into the exactest discipline, under an active Directory, which knows how to distribute its force, and apply its operations to every point of attack and defence where they shall become necessary. They are an army actuated by a single will and a single intelligence, which has discovered a new and profound system of tactics.

HAVING thus balanced their abilities for action, we may pass to the review of the materials one of these Catilinarian bands of conspirators had, and the other has now, to act upon. It will be said, that ‘ men have at this day before them the dreadful example of the infringement of the engagements of limitation, by which the Parliament of Charles bound themselves and the people.” But to this it will be replied, that there never was a time in which the crime that followed them, had so many and such determined advocates, at least in the lower classes of the demagogues, nor in which they

they were heard by the multitude with such partial attention. Nor, though we call this an enlightened age, are men enlightened by simply exchanging one set of principles for another; the mind is not enlightened with respect to any object, which it formerly considered exclusively in one point of view, if it now comes to survey it exclusively in a second.

BUT let it be admitted, that the populace may possess a more exercised keenness of mind on political points now, than in the middle of the last Century; unless it can be shown that their morals are not worse, that they are not more addicted to rapine, that they have not less reverence for laws, as such, or if the contrary of all this appears a melancholy truth, with what advantage can an increase of such knowledge be pleaded, when the question is, Can we put more faith in articles contained in their Covenants or Associations at this juncture, than were due to the stipulations of their ancestors?—which repeated experiments proved to be intitled to none. It is an acknowledged fact, with respect to every individual, that if as his reason grows more acute, his principles grow worse, his fidelity will not be improved: his character will even become more dangerous, and that in a degree determined by the sum of those two changes: and the same must be true of a multitude composed of such individuals.

If some increase of their knowledge be to be admitted, the degeneracy of the morals of the populace is capable of fuller proof. Will any one contend that the annual number of convictions of criminals does not increase
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with much greater celerity than our population? Are not criminal connections of the sexes, the source of misery and profligacy, more frequent among the lower orders*? But this question may be rested on the authority of Mr. Hume; certainly not a writer who had taken up the idea of a progressive degeneracy of the morals of mankind, as the generations succeed each other, and who was thence induced, by his system, to make a fine declamation on the purity of a former age. The account he has given us of the national character of the English at the commencement of that sanguinary period the Civil Wars, may be esteemed a faithful portrait of what his extensive researches showed them to have been; and it demonstrates, that both the National Protestation, and the National Covenant which supplanted it, were, in that age, experiments greatly safer than a General Association of the People now is. "Never (says that Writer) was
 "there a people less corrupted by vice and more actuated
 "by principle than the English during that period;
 "never were there individuals who possessed more capa-
 "city, more courage, more public spirit, more disinte-

* This point is capable of being decided with precision from Parish Registers, which give the proportion of illegitimate births to the whole number. In a Register lately inspected on the subject of population, this proportion was found increasing, with some equality, throughout the whole of the present Century, divided into convenient equal periods; and that in the first period, of a certain number of births, ten were illegitimate; and, in the last, of the same number, there were 164 such births, or they were increased in the proportion of sixteen to unity. Before this examination it would not have been judged that the result of it, instituted in the adjacent parishes, or in the same part of the kingdom, would have been a less alarming appearance.

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"rested zeal * !" Can this be said, or is this believed, of the character of the mass of the people at this day ? Are all these qualities admitted in all the leading Members of Opposition ?

SECTION VIII.

CONCLUSION.

FURTHER REMARKS ON MR. FOX'S ASSOCIATION.

THE first part of this Tract begins with a comparison of the nature of the Associations of 1792, and the General Association of the People under Mr. Fox. There remained many particular observations to make on the latter ; but the principles on which I intended to found some of them, are such as will be received with greater authority when demonstrated by induction from History, than if they had been simply proved by abstract reason-

* Hume, v. 6. p. 421. He there adds, " The infusion of one ingredient in too large proportion had corrupted all these noble principles, and converted them into the most virulent poison." This may be understood by some to mean Puritanical fanaticism, but I think erroneously ; as it has been shown, on his own authority, that the majority of the nation were not Puritans. The passage seems to suggest nothing more or less than a principle of Mr. Hume's heterodoxy in natural religion ; that there was too great a quantity of religious zeal then in the national character. But I believe there was nothing of the gloom of superstition which clouded over the manners of the great majority of the nation, or the Established Church at that time.

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ing. A further use also appeared to me to arise from this way of managing the subject: it has enabled me to point out the similarity of the spirit of all commotions, excited by Offensive Associations against an existing Government, not despotic; and more particularly of those where a Section of the Associators originally sets out with democratic principles, or takes them up in the course of their progress. In this manner of treating the remainder of the subject, there will be some recapitulations, but they will be given with as much brevity as it will permit.

THE Associations of 1792 may be compared to a cluster of about two thousand Republics, independent, or at most slightly connected by the laxest principle of federalism: their object was Defensive. From the history of such Associations in this country, it appears that they alone have been useful in the support of the constitution of Government*.

* It is admitted, that the Constitution has been gradually ameliorated; but it may be made a question upon this admission, how these ameliorations have been obtained? The course has generally been, that Kings, at different times, have granted beneficial laws and franchises to the people; sometimes spontaneously, as that great founder of the English Jurisprudence, Edward the First; sometimes to attach the people to their titles when doubtful—thus Henry the First granted a Charter, rather more full than Magna Charta, and the origin of it; and at other times by a tacit or more express contract for a large supply, as the Petition of Rights. The enjoyment of these franchises, in act and effect, has been, at different times, secured by Defensive Associations. It is the felicity of this kingdom that they were so obtained; but it is not meant as a proof that all other modes of obtaining them are criminal.

THE Association of Mr. Fox is in its object Offensive ; and it has been seen that all such of which a survey has been taken above, have been attended with very fatal consequences : and if the plan of this can be carried into execution completely or nearly so, it will become a machine capable of destroying any Government : the general body of the people being invited to become parties thereto, and generally so becoming, its force will be effectively the greatest possible : to this it adds the strongest degree of union, while it has a Directory at its head, the Whig Club, which is to be regarded as under the conduct of an effective Dictator *

* " A Declaration of the motives of the Club in recommending this Association, was read by Mr. Mackintosh, and " unanimously approved of." (Introduction, p. 3.) The eminence of Mr. M. among our Political Writers, impresses me strongly with the belief that he was the Author of the Declaration which he read : his public act however proves it could contain nothing repugnant to his avowed political principles. As I have not his book, I shall transcribe some part of what Dr. Parr has said of his writings :—" In Mackintosh I see the sternness of a Republican without his serenity : " but this may probably describe only the character of his sentiments on abuses of power. The Doctor pronounces an " unqualified negative " on his opinion that " the existence " of ranks is repugnant to the social union : " from this we know what he must think of an Hereditary Senate, or House of Lords, in a State. And in the conclusion of his critique on his work, Dr. Parr lays down a further capital point of difference between himself and Mr. M. in these words :—" I prefer two independent Houses, " for legislative deliberation, to one ; and that in a King with the " substance of the executive power, will be found a better guardian of the public weal, than in the mockery of a pageant King " with little more than the shadow." These extracts will not be supposed to be an inimical account of Mr. Mackintosh's Principles of Government ; as Dr. Parr, in a note, applies to him what Cicero said of Hortensius—*Quinti Hortensii admodum adolescentis ingenium, ut Phidiaz signum, simul adspexit et probatum est.*

Now let it be supposed that a man of great ambition, yet that ambition purified from all meanness, whose plain manners are consummately attaching yet manly, as if his object were power over all men collectively, not individually, and possessing an eloquence masculine, pure, and commanding, is set at the head of such an omnipotent Association: admit him also to be a man of dextrous and profound ability, fertile in expedients, rapid in the execution of his plans; and that the citadel of Government in his native country has a considerable strength for resistance, but is by no means an impregnable fortress; generally surrendering (but by capitulation) after a longer or a shorter siege: and that, in the chequered fortunes of his political life, he has twice made his way into it by something like a *coup de main*; and that he has been said, the last time, to have begun to strengthen this fortress, as soon as he was possessed of it, with additional works, constructed on a new system of fortification, so far improved as to bid defiance to any regular mode of attack yet discovered: — in dangerous times, if such a man mis-allied himself he must be highly dangerous.

THE qualities by which he has attained power have been indicated; and, mixing in his councils, when in place, somewhat too much of the qualities by which he obtained it, let him be supposed, each time, suddenly to have fallen; and now well past the meridian of life, but again entertaining some fair hopes, by the aid of the band of friends whom he saw about him, eminent in ability, and with high national respect attached to their names, at last to obtain what had been the object of the labours of his youth and of his manhood to the verge of age:

to

to see this removed out of his reach by any common means, by the secession of the great body of his party, with every name of higher ornament to it at their head, from the danger they ultimately discern in the course he has been of late years pursuing, as having been unduly qualified to the nature of a mixed Government; we might well dread, from the past experience of his political enterprize, that if he openly put himself at the head of such an Association as I have been describing (thereby pointing out his despair of success by every other resource) that he might not be unwilling to re-acquire possession of his object by uncommon means.

AND if, at such a time, there exist a Republican Faction in the State, or a Party that should contend for a mixed Government, with a pageant of a King and a single Elective Chamber (which, infallibly terminating in the former, is for the present to be regarded as the same thing *), and the most eminent man, as to ability, ranging under either of those two titles of the same thing, having brought forward a Declaration of the motives to entering into such a political compact, which motives must be consistent with the principles he has publicly maintained; if the effective Head of the Directory, with the whole body, should unanimously approve of that Declaration, the only visible end of his conduct can be, to invite such Party or Parties to a close junction with him, by thus holding out to them an idea, not obscurely conveyed, of a certain degree of concurrence with them

* The stability of such a system, compared with that of the English Constitution, has been very well illustrated by that of "a two-footed stool" and a "tripod." See Dr. W. Thompson, in Dr. Parr's Sequel, &c. p. 177.

in their systems; and the apprehension of it to the supporters of the present form of Government. Must not this man, by this junction, flinging himself at a greater distance from his former supporters, seem openly to renounce all ideas of reunion with them; the only regular means left to him to obtain that pre-eminence, which he cannot be imagined ever to have intermitted his pursuit of? And must he not appear, at the head of such an Association, dangerous in the extreme?

I now take leave of this hypothetical personage and come to a real one. But I must here premise an abridged account of the original plan and object of the Jacobin Club, from Dr. Moore; as it will be expedient to enter into a comparison between these and a principle laid down in the House of Commons in 1781.

IN 1789 a small number of Deputies sent from Brittany to the States General of France, associated under the name of the Committee of that province. Being afterwards joined by some other members of that Assembly, and persons attached to liberty, they assumed new titles, copying the style of some English Societies; taking first the name of The Revolution Club, and ultimately that of Friends of the Constitution. From the place of their assembling, they received from the Public the name of JACOBINS; under which they have since become so fatally distinguished. In this Society, at first, there were many persons celebrated for their talents and character. Clubs of the same nature were multiplied over all France, who regularly corresponded with them; and who, finding a central body ready formed, through which they might transmit their opinions and wishes to the National Assembly, they appointed

pointed them their agents for this purpose ; and as the Club had, at the beginning, assumed the functions of the Delegates of those in whose behalf they held themselves forth as acting, they were by other Provincial Clubs acknowledged in that capacity : and the irregularity of the assumption was thus to appearance done away. It is to be observed, that when this system was completely organized, and their extra-constitutional functions thus confirmed, the Club differed from the Meeting of the Delegates of the County Associations, who sat in London in 1781, in one circumstance only. The objects the latter were to treat on were specified ; consequently their delegation would have terminated when these ends were obtained : those of the former were unlimited, the continuance of their functions not being dependent on their obtaining any specific object or objects.

“ THE avowed business of the Society” (of Jacobins) “ was to deliberate and debate on subjects of Government, and watch over the general interests of Liberty *.” Now in a Government where everything depends in effect on the decisions of the Representative, this amounts to *watching over its conduct* without limitation of time †, and to no more : and if the object of the

* Moore's Journ. &c. 1793, v. 1. p. 110, 111.

† It is evident such a superintendence, wherever established, must grow up into substantial control on Government in general : the same power must produce the same effects in every country : even at least a Perpetual Assembly of Delegates would have destroyed the Constitution, by constituting an effective Fourth Estate of Parliament.

Delegates in 1781 had been so extensive in that meeting, England would have exhibited the first example of a Jacobin Society.

BUT it is to the full extent of that object that the principle goes, which is laid down in the following extract of a speech attributed to Mr. Fox. It is to be found in the History of our Parliamentary Transactions, printed in The New Annual Register in 1781, the writer of which appears strongly attached to his interests. "By what law or what act (that Statesman is made to say) "was it declared to be unconstitutional for the people "of this country to appoint Delegates to reside in the "metropolis, and to watch the conduct of their Representatives *?" Such interrogations carry the full force of affirmations.

If those who gave to the original Breton Committee its last Constitution, whereby it was transformed into a Jacobin Club, did not look for its avowed principle in the doctrine here laid down, yet, if they had, they must have found it. In defining the functions of that Club, the Legislators who gave to it its most finished code, have almost copied the expressions here attributed to Mr. Fox; for if there be any difference between "watching over "the general interests of liberty," and "watching over "the conduct of our Representatives," as the latter includes their whole conduct in all its branches, it seems the more comprehensive, if we do not take the words

† British and Foreign Hist. p. 133.

preceding the first citation (as formerly quoted) in aid thereof : and it would be very difficult to show the fatal Institution of the Jacobins not to have been derived from the principle laid down in this History.

IF the above declaration ascribed to Mr. Fox contain his real present sentiments, and we combine this with his putting himself at the head of an Association of the Republicans, real and virtual, the qualities of which will be neither mitigated or modified by some misguided men of better principles and little foresight joining in it, it is a step big with danger to the existing Constitution.

BUT I have done with the subject in this point of view, and make no doubt that there are many, even among his old opponents, who regret that he did not join the illustrious body of his late political friends in their secession from the remnant which continues to call itself The Whig Club ; who think there is a part remaining for him to act at least equal in dignity and splendor to any that he has yet acted in ; whose wishes continue to be, that, forgetting some of those extremes of opinion which made " him push his better Angel from his side," he would in part follow those seceders : they would rejoice to see him (without that appearance of intire transition which, sometimes rightly sometimes wrongly, has destroyed the reputation of great rulers of Parties), for a time avowedly unconnected and alone, a Party by himself, assuming that function within, which can belong to no exclusive and organised body of men without the walls

walls of the House, "to watch over the conduct of our
"Representatives."

LET us now examine the mode by which the object of this Association is to be obtained; thereby "the subscribers pledge themselves only to prosecute a sole object by every legal and peaceable means." This implies the absence of all force, apparent or latent, in the prosecution of it.

AND suppose, on this occasion, the authors of this plan to be able to carry it into effect, or procure a General Association of the People, Is not the union of the People irresistible? As such, Will it excite no apprehension in the Legislature? The terror of an irresistible petitioner is not among the means to obtain a repeal of a law which are to be called peaceable. It is not the Legislation of the land, but the law of the stronger, the *jus fortioris*, which decides, in effect, upon the merits of such a petition. But it is only what takes place by the will of the Legislature, acting in total freedom, which is either legally or peaceably obtained. The act of appeal to the *jus fortioris*, formally made, or sufficiently indicated by preparation, though denied in words, sets aside the Law and Legislation of the Land; and what is obtained thereby never can be, according to that, legal; for the Law sanctions nothing while it is in a state of non-existence.

WE know that a Society has the right of self-preservation as well as an individual; and that there are cases of extreme necessity, when the action of the whole people

ple may be called forth. But it is to be observed, that it never can be brought forward peaceably ; it must operate by force or by terror : such a measure is in effect resistance at least ; it even amounts to compulsion, whether avowed as such or not, which is something more.

I TAKE it for granted the necessity must be as great and as obvious when the whole People are to be united against the three constituent parts of the Legislature, as when that union is directed only against one ; against an act or acts of the King, Lords, and Commons, as against an act or acts of the King alone. The circumstances under which the latter measure is constitutional have been laid down by Sir Joseph Jekyl ; “ the very standard “ of Whig principles of his age ;” and on the occasion when they were to be defined with the utmost accuracy, in order that the maxims on which the great preservers of the Constitution in 1688 acted, should be left upon record to all posterity. This he did at the Trial of Dr. Sacheverel, when, speaking in the name of the Managers for the Commons, he defines two great conditions, under which resistance to the Crown becomes justifiable. These shall be compared with the present case :—1st. “ We have “ insisted, that in no case can resistance be lawful * but “ in case of extreme necessity, and where the Constitu- “ tion cannot otherwise be preserved :” 2d. “ And such “ necessity ought to be plain and obvious to the sense and

* Lawful (*i. e.*) *in foro conscientie* ; for human Laws can never recognize the right of resistance in express terms ; as the Managers for the Commons strongly asserted. Indeed, that a case should be established by Law, in which Law is to have no force, is a contradiction in terms.

"judgement of the whole Nation : " and this every good subject who knows the history of the times, believes with him to have been " the case at the Revolution." The act of the whole Legislature ought not to be opposed by the union of the whole People upon slighter grounds. I would therefore ask the promoters of this Association, How they can prove the extreme necessity that men should continue liable to be tried and condemned for treason, on proceedings analogous to the principles " of an "*ex post facto* law * ?" that the beacons which now more plainly point out legal danger to the factious should be removed ? and they should be left, at their own extreme hazard and with some danger to the Public, to the chance of running upon a rock, not less fatal for being sunk almost out of sight ? For the object of the Association is to restore them to this situation, out of which the two Bills have taken them.

BUT let it be granted, that the proof of the extreme necessity of this restoration is by them made out in full form ; still that necessity wants the second essential property, for them to be intitled to act upon it : it is not, as it " ought to be, plain and obvious to the sense " and judgement of the whole Nation." It is certain that the great majority of that class, who by their situation are able to acquire, and who actually do possess, by far the greater portion of political and constitutional science, the greater weight of the whole mass of the political knowledge of the State, deny the existence of the necessity ; they even affirm the necessity of the existence of the Acts thus opposed, as appears by their Addresses

* Hume, v. 3. p. 25. note. and Appendix, No. I.

to the Throne, and their Petitions to the late Parliament.

IN this relative unanimity of the whole Legislature in support of the two Acts, supported itself by almost the *bonorum omnium consensus*, the consent of all good Englishmen, notwithstanding all the professions that can be made of using none but legal and peaceable means to obtain the repeal of them, what confidence can the Associations entertain of success, except from power, or the apprehension of power? The very act of association adds no argument to the repeal; and I am certain the names of the Club which brought it forward, in its present state does not add to that authority. The measure is a tacit menace to the Legislature, by no means a peaceable mode to carry through a petition; and, if not contrary to the letter of the Laws of England, contrary to the universal spirit of Law. Bacon, in his Historical Discourses, says, that "when the written law maketh it treason to compass the destruction of the King's person, it leaveth it obvious to common sense that it is a higher degree of treason to compass the destruction of the Representative *." And by the same mode of argument it may be shown, that the coercion of the King by effective menace in the exercise of his Royal functions, being a high crime and misdemeanor; the coercion of the Legislature, by similar means, is of the same criminality; and surely such a coercion of the Commons, according to the principles of these men, is a wound of the majesty of the People, which resides in them; and "all men do

* Continuation, p. 77. 1651.

“agree (says Bacon) that treason is a wound of majesty *.”

THE Heads of such an Association would not commit themselves in such a measure without strong hopes of success, against the almost unanimous opposition of the informed classes of Society at large, and the union of all the constituent parts of the Legislature. On what can they found that hope? They must expect aid from some other quarter; external aid, but which they can cause to operate in the very walls of both Houses, to awe them and the supporters of the Bills into submission. The horizon at least must be involved in darkness, the fullen sound of distant thunders must be heard from many quarters, if the spirit that raised the storm do not roll its strength over their heads, and let all its rage descend upon them. If these leaders of the people do not employ actual tumults and commotions to force a reluctant Parliament into their measures, they must suffer them to be enforced by the fear of their near approach, or they are embarked in the most ridiculous of all undertakings, as it must be the most fatal to every future rational view of coming into power, which they may be supposed to entertain.

LET us grant now that the Heads of the Association are most strictly determined to confine themselves to the respectful conduct of real petitioners; that they will submit to repulse after repulse without exceeding its bounds; the certain fate of their application to Parlia-

* Continuation, p. 76. 1657.

ment, without the apprehension of latent or apparent force: I say their best intentions, realised in irreproachable conduct, will probably add very little to the protection of the State, from the extreme of danger hanging over it from this Association, if the project take place.

For their repeated efforts alone will generate a ferment in the minds of the populace; and can they answer that the lower classes of the associators will not take up either *their* object or *some other*, re-involve the metropolis in the disorders of 1780, and expose the whole kingdom to them? In that year, when the multitude had seen the counties holding meetings to censure the internal administration of the kingdom; forming Committees of Correspondence, sending Delegates to sit in Congress or Convention, in the metropolis: at that period, as it has been said above, an individual of a doubtful description, between an enthusiast and a madman, availed himself of the agitated state of their minds to direct them to an end with a new name; and they, mixing ferocity and the desire of plunder, with certainly a very weak degree of religious fanaticism, had nearly effected the ruin of the capital. Yet at this instant there is a greater real ferment in the minds of the lower classes, than Lord George Gordon was able to excite; nor, if the Chiefs of the Association be now as averse to lead them into similar excesses, as it is here supposed, will they want many really formidable enthusiastic leaders to hurry them forward.

Nor can the seat of Government at this juncture, nor the kingdom in general, expect less misery from such a commotion,

commotion, if not instantly suppressed, than the afflicted territory of France has recently suffered. In an insurrection of the English populace, political fanaticism and the eagerness of plunder will jointly stimulate them, even at first; but the devastations of France, for a long time, were caused by that fanaticism alone: the spirit of plunder was not mixed with it. Even so late as the time when the palace of the Tuilleries was stormed, the very assassins killed on the spot several men "who on that day attempted to steal the plate." "It must appear (says Dr. Moore) in a peculiar manner strange to persons accustomed to live in a country where there are frequent robberies and burglaries, in spite of the Government being undisturbed and the Laws in full force, *to find none* where all the hinges and supports of Law and Government are loose and shaking from a recent convulsion *." And great as the sufferings of that kingdom are and have been, if a similar insurrection were to take place here, the disposition of the populace to robbery and plunder being added to the fanaticism of liberty already highly excited in them, greater would our calamities be. This conclusion is fully confirmed by an authority which will be very unexpected to many, that of Mr. Barlow, in his Advice to the Privileged Orders; who informs us, that "the Mobs in France were by no means to be compared with English Mobs in point of indiscriminate ferocity and private plunder †."

UNITE the populace by an Association, exhibit to them an object to acquire, and, if there be the least delay

* Journ. v. 1. p. 118. See also p. 50 & 92.

† Page 2.

in its acquisition, they will rush forward upon the scene of action. Little is the distance with them, between the point of time when they shall be thus combined and stimulated, and when they break forth in outrage; for sooner than stand still, they will make rapid vibrations in the most contrary directions; moving with impetuosity toward one point, and returning with the same impetuosity to that from which they set out. In the shortest space of time before James fled to Faversham, the sovereign populace of London had, without doubt, pronounced his *deceance*: but although by that flight he had attempted to annihilate civil government in this country, upon his return, he was received by them with every mark of the most zealous affection. "This great turn in the minds of the city" continued during his residence at Rochester, or until the 23d of December. Having proceeded to the extreme in that direction of movement, and unable to continue stationary, we have seen, that so early as the 4th of the month of February, they announced a second change of their will by an insurrection, to compel the Convention to declare his throne vacant.

Hence it may be reasonably predicted, that if the projectors of this Association be able to embody the populace nominally under them, the latter will not wait for orders to come into action. The desire to copy the example of the populace of France prevails among many; and by their being drawn more together by this dangerous measure, it will be more generally diffused. And History informs us, that the spirit of insurrection has mostly migrated from France to England. The religious Association or League under the Guises, was the precedent of

* Burnet's Occasional Sermons, preface, p. 26.

the Presbyterian Solemn League and Covenant; and the Association of the Jacquerie, on the principle of the equal Rights of Men, was copied in England by Wat Tyler and his associates. The eruption of both these evils was kept back here for a considerable period; and if either of these events excited any alarm in England when they first took place, the passing of five or six, or even ten or twelve years, without their producing any effect, was no proof that such alarm was not founded on real danger; and it will be happy for this country, this generation, and posterity, if the system of the Jacobins, (the way of which seems now preparing by Associations tendered to the populace) be kept permanently at a distance from us.

BUT let us pass from this investigation of the probability of the peaceable legality of the *intended* good conduct of this Association; which, if it be not meant to over-awe Parliament, is a great movement without a motive, and a prodigal waste of the last chance of the man who guides it, of standing again at the head of a great and regular Party; let us pass from this to the declaration of the limitation of its object, and consider the security arising from the engagement, that the Association will confine its operations to the single object announced. This security must be determined, from the description of the parties to the contract, and the matter thereof conjointly.

THE whole Party of the avowed Republicans will be included among the subscribers; all of them the defenders, and almost all of them the admirers of the violators and violation of the solemn engagement to the support of Monarchy, taken by the French Assembly in July

1792,

1792, and broken the 10th of the following August. What they defend, and what they admire, they will not be very backward in copying. Together with these, the party will consist of men of some other descriptions: of those nominally professing to wish for a King, and a single Assembly of Representatives, in order to introduce a Republic by stealth, and those who wish for such a system in reality; the latter of which coming to act in a closer union with the two former sections of the Association, will be easily won over to their party; for the most decided opinions have always the loudest advocates: and, indeed, we can hardly discover on what ground they can hold out against the arguments with which these allies of theirs will be able to assail them; on the folly of a system whose only consequence must apparently be, to prolong, during a sad and bloody interval, the last convulsions and dying struggle of Monarchy. The remainder of the Association will be composed of those who wish for what they call a Reform of the Commons, or some other Reform, and at every hazard of the State; for the more temperate advocates of these measures will not join the Association. Those who were content with our system of laws before the passing of the two Acts, who will join in this compact, will be very few indeed: almost the whole of them having concurred in declaring their opinion, that the temporary regulations introduced by these laws, is at this time necessary for the preservation of the Constitution of Government. Hence it follows, that the obtaining the repeal of them, will satisfy the wishes of this last division of the Associators only, a very small minority of the whole body: and every one must concur in admitting, that the probability that they will stop, when they have obtained those

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points which they have fixed as the limits of their claim, is much diminished, as the wishes of the great majority, and their principles, extend indefinitely further.

I COME now to speak of the matter or nature of this engagement, and shall show it in one case to be totally useless, and in all others totally nugatory, as imposing no obligation on the greater part of the subscribers, according to their political principles.

FOR, in the first place, if the Association do not become general, or at least obtain strength enough to overawe Parliament, the promise will be useless: the security of the State from all the effects of their proceeding beyond their assigned limits, being as firm in their simple want of power, as in their want of power and their respective obligation (the promise not to make the attempt) conjointly.

FURTHER, if it do not become useless, as above, it will then be nugatory: for the sovereign power, as the supporters of this Association hold, resides in the people, whenever they chuse to act; and consequently the legislative power, which is a branch thereof. The people may, if they please, make, and consequently repeal laws: may they not, therefore, when associated, repeal that clause of the compact, limiting to one object the exertion of their universal and illimitable sovereignty? for if they can repeal a law made to bind themselves, they can annul an article of any obligation, if not founded in moral right.

AND

AND to whom do the subscribers give this obligation ? To the people ; and the party to whom it is given is in full power to remit it. When, therefore, the subscription becomes general, the subscribers will be the people, and it will be an obligation entered into by the people individually, to the people collectively ; a compact entered into by themselves to themselves, which is absolutely nugatory.

AND if any collection of persons, signing such engagement, shall call themselves the People, although their numbers be not such as to entitle them to assume that name, by their assumption they claim as their own right all the rights of the people ; in which is included, according to their principles, the right of declaring the limitation of action, to which they have, or shall pledge themselves, to be void.

THERE are other grounds to show that such a promise can be of no validity, or not be the foundation of any obligation on the givers of it. When two parties exist in a State, the validity of their promises stands much upon the same ground as those given by independent nations to each other. The authors who have treated on the reciprocal rights of nations, have described those promises from which no obligation arises ; and in defining them, I follow Grotius. " To give validity to a promise, the subject-matter must be such, that the person giving it has a full right to perform it ; wherefore the promise to do an illicit act is not valid, because no one has, or can acquire, a right to perform it *." And by parity of reason, a promise to omit an act of moral

* De Jure Bel. & Pac. l. 2. c. 9. § 2.

obligation so given, is void and null in itself. Now I say, to remove any great grievance, under which we strongly believe our country to suffer, when it is in our power, is an act of moral obligation. The parties to the Association are known to declare, that this country labours under many removeable grievances, beside the two Acts for the repeal of which they combine: hence their promise to stop at that repeal, if it be in their power to proceed any farther, is an engagement *not to perform* an act of moral obligation, and therefore null and void.

BUT let it now be admitted, for a moment, that in their specification of limits, beyond which they would not go, they have contracted an obligation to their opponents, or to the State. The melancholy experience of our Civil Wars in the last age, points out to us what little reliance can be placed on all such assurances. From the manners of the nation in that period, it has been shewn, that the utmost fidelity might have been expected in the performance of all their engagements: from its prevalent and general character of piety, men might with confidence have believed, that the national Protestation, consecrated as it were by one of the most solemn forms of religion, would be sacredly and inviolably adhered to. Religion was considered by them as a more immutable thing than a form of government is by us. There was no visible party among them who conceived that its obligation was founded on the assent of the nation; that it might be believed experimentally for a month, or a quarter, or a year, and then be abolished by ordinance of the two Houses, and another enacted in its stead, by their own authority, or on the requisition of the sovereign people. They held, when
they

they took the Protestation, that no power could absolve them from it, except that in whose presence they professed to have made it. And when we see by the event, that even in such times no effectual confidence could be placed in that solemn declaration, what reliance can we afford to the promises contained in the instrument now brought forward? especially if we take into the account, that if it be generally signed, the parties thereto will, according to their own ideas, be, of right, able to absolve themselves from the obligation thereof. I do not tax the body of the promoters of this Association with intending to impose upon their countrymen with false coin; but when they shall ultimately come to discover, that according to their principles they have obliged themselves to nothing in the limits they have laid down, I shall not sanguinely expect that their performances will extend a whit beyond their obligation. Those of our ancestors in more moral times, and on a similar occasion, fell far short of theirs.

A FEW remarks must be added on the conduct of the populace when excited into action, and its consequences. When embodied, they are always found to be actuated by the most extravagant opinions afloat: those which most flatter their deceitful hopes, their envy of their superiors, and their ferocity and spirit of depredation; and that day, when the populace, calling itself the People, shall carry its first great point against a reluctant majority, influenced by the apprehension of tumults out of doors, will be effectively the last day of the power of the three constituent parts of Parliament; for they are brought forward, by expectations diffused generally among them, of a change of their situation in life for the better,

ter, of a multiplication of the objects of common use and enjoyment, and a diminution of the number of the privations their state condemns them to: their first victory will make no difference in their situation; disappointment will inflame them more, and they will be taught to form new expectations from the effect of going further; and thus they will be rendered eager for a second interposition of their strength, which will be doubled by an appearance of success, although it has been to them fruitless. But their Leaders in this country, it will be said, will have a limited object in view, and will know how to stop them. The fallacy of relying upon this, which is matter of universal experience, has been recently confirmed. In France, there were some great and well-meaning men among those who put the whole body of the people into motion. When they thought they had gone far enough, they chose to stop. A set of subaltern Leaders, at that juncture, urged the populace on further, whose irresistible weight and impulse bore them down, and they were trampled to death under their feet. Their new conductors, when they had carried them the lengths they desired, that is, when they thought themselves securely placed at their head, wished likewise in their turn that they should come to a halt. They tried to effect it, and shared the same fate as their predecessors. The multitude were still excited to continue their march by Leaders of a viler class. The place they were gotten to, it was truly argued, was little better than a rocky or sandy desert; and they were assured, that a single-day's journey more would lead them to the promised land of perfect freedom and abundance, where their whole future lives would be spent in feasting and revelry. Their migration

under

under these last Leaders, brought them into the land of famine and bloody ferocious anarchy.

It will become, at this time, the original institutors of all such Associations as have no remote tendency to promote popular insurrections, to reflect, that when the lower class of people begin to act in matters of Government, there is no ability, no vigour, which can restrain them within the limits of their original plan. To carry some points, Cromwell brought the Levelling Agitators into action: when they had served his purpose, he wanted to reduce them into their former inefficiency. They resisted; by one of the greatest exertions of personal and political courage, of which History furnishes an example, he obtained the delusive appearance of a triumph over them; but the realities of the victory all remained to the spirit of agitating. Even Cromwell himself gave way: he was compelled to relinquish his former plans of personal greatness, and seek for new ones, in the act of yielding to that impulse, he could not resist*. There may be men in this Association whose political dexterity and vigour deserve to be thought highly of; but I do not think that man lives, whose arm is so well finewed that he can shape his way against a torrent which Cromwell could only breast for a short time, and then was hurried away by its rapidity. For, to me, in this part of his life, he seems like one of the mightiest of men, struggling for a few minutes against the stream in some branch of the Indus, when the periodical rains have augmented its force to the utmost, and then compelled almost to resign himself entirely to it, and to make his way obliquely, with incredible effort, to an island of jungle in the middle of

* Appendix, No. V.

the channel, the thickets of which are filled with tigers and serpents, its only inhabitants ; where he is inclosed from all escape to the safe shore he has left, which lies in full prospect before him, while deaths without resistance, the most terrible to nature, and which alone could be the object of terror to him, press on him, or watch in ambush around him on every other side.

As accurately as the object of the Association is, in words, limited, if we suppose a majority of the Leaders of name faithfully to intend to disembody it as soon as its sole avowed end is obtained, shall we believe the same of all of them ? For it has been shewn, upon the principles some receive as the foundation of Civil Government, that the promise this instrument holds out is a nullity ; but if it were otherwise, and were that engagement in its nature binding ; and all the ostensible Heads of the Association should be determinately faithful to it, they are not the men who are the direct and proximate Leaders of the populace : it is a certain set of intermediate agents who act in that capacity, who directly hold this terrible power in their hands ; and the greater Leaders must, like Cromwell, give way to their intermediate instruments, to those who can inflame the Multitude into madness. They must become the instruments of their instruments in new crimes they may detest, or fall the second set of victims to irresistible ignorance, inflamed into immitigable ferocity.

I SHALL add here a little, and but a little, on the mode of reasoning generally pursued in this Tract. There are men who object to a constant reference to the tragedies

now

now acting, and acted in France, during the last seven years; of which some direct mention, and to which more allusion has been made, in the preceding Tract. 'We are not,' they tell us, 'to point out the pretences and means by which that, and, by parity of reason, any other nation has been ensnared into all the miseries of Anarchy, in order to keep alive a jealous circumspection with respect to every measure which may introduce it into this kingdom.' Hence the argument from historical induction chiefly used here, which impresses the principles of experience, and those only, upon the mind, with the very decision and warmth of feeling with which Nature meant them to be embraced, is proscribed by those who lean to the doctrines of the Republican School. They will have men addressed as beings formed of pure and impassive intellect only: or, if they graciously permit us to continue to see, they prohibit to us the exercise of the faculty of feeling.

YET they might as well bid us blot out, from the records of universal history, the errors or crimes which have led so many and great nations into ruin; say that it is useless to make any observations on the causes which brought it on, or the miseries by which it was followed. Must we extract no useful lessons for our own nation from the great register of the experience of all ages? It is not in nature, and therefore I am sure it is not in wisdom, to turn away our eyes from the series of French revolutions, so recent, and almost unprecedented in the sum of their calamities; while we are in the very neighbourhood of the contagion, when such multitudes are desirous of introducing it among us. Who that had just seen a noble vessel striking upon

* O

a sand-

a sand bank near our very coast, which had not been before discovered, and totally wrecked, would say that a buoy, or a floating light, should not, if possible, be immediately moored upon it? and if the position of the whole of the sand were not accurately known, that we ought not to keep the sounding line in our hand, when we have the least suspicion that our vessel may be getting upon it?

WHEN Mr. Burke foresaw so many of its ensuing calamities in the first movements of the French Revolution, his probable train of reason from cause to effect was decided. Dr. Priestley fairly told him, " he would not call in question his gift of prophecy; his peculiar talent to see all events, past, present, and to come, in their most concealed causes." Experience has nevertheless proved the error of those who disbelieved and those who doubted these predictions; however, we might have been able, with safety to ourselves, to continue to doubt whose opinions were the best founded, until the event shew it clearly. Our existence as a nation under an orderly government, might not have been hazarded even by disbelief; but that these evils were in reality then impending over France, the followers of Dr. Priestley now admit: yet from the continuance of the same propensions, they will dispute the probability of the conclusions here drawn from historical induction, that a General Association of the People is a measure threatening this kingdom with great danger. I conclude with observing, that this is a case in which we cannot with equal safety postpone coming to a decided opinion, until a second and equal series of calamities to those we have been recently witnesses to shall convict them of a second error.

APPENDIX.

APPENDIX

APPENDIX.

No. I.

STRICTURES ON THE STATUTE OF TREASON ENACTED IN THE 25TH OF EDW. III.

THE Law of Treason, as it stands by 25. Edw. 3. c. 2. has been by many considered as a master-piece of jurisprudence, to which nothing is left to be added by succeeding Legislators, without undermining the national liberties. This opinion it now becomes of consequence to a very active party to defend with its utmost strength. In the preceding pages that statute has been spoken of in terms very different, of the reason of which some account certainly ought to be given. Its defects shall therefore here be shewn, which are such, that in vices of its formation and matter it is absolutely an unique in our law books.

It recites seven cases or acts of treason, three of which directly attack the King's person and dignity; and when a culprit is indicted on any one of them, the Judges are impowered to proceed to try him for that crime.

THIS is abstracted from Blackstone, who is not sparing in his panegyric upon this statute: he says further: "But the Act does not stop here, but goes on:

"BECAUSE other like cases of treason may happen in time to come, which cannot be thought of or declared at present, it is accorded, that if any other case supposed to be treason, which is not above specified, doth happen before any Judge, the Judge shall tarry without going to judgment of the treason, till the cause be shewed and declared before the King and his Parliament, whether it ought to be judged treason or other felony*."

Although the meaning of this clause or salvo † is obvious, I shall premise the comment of Nathaniel Bacon upon it to the strictures I have to make thereon: "Other treasons are left to the determination of the Parliament, as occasion should offer itself; whereof divers examples, of a new stamp, occurred

* V. 4. c. 85.

† I find the clause to have been so denominated at the trial of Lord Strafford, Bak. Chron.

" within forty years next ensuing, which were of a temporary regard, and lived and died with the times *." Those cases *which occasion offers* must be so submitted after the act or occasion occurs. This clause has been marked with great suspicion by a writer of much penetration: Parliament had proceeded upon it, in condemning Sir Thomas Talbot for treason, for an attempt on the lives of the Dukes of Lancaster and Gloucester, in the reign of Richard the Second. He imagined "this most advantageous law for the subject that ever was enacted" to have been violated in this case, as "it is not to be supposed that men were to be judged by a law *ex post facto*. At least if such be the meaning of the clause it may be affirmed, that men were at that time very ignorant of the first principles of law and justice †." That such is the meaning of the clause is evident on the mere reading; that it is not a new sense of it is evident from Bacon's comment. No legal authority stands higher with the party who attack the two late Acts ‡.

I PROCEED to shew; first, That the Act, with this clause tacked to it, violates several of the great fundamental principles.

* Bacon's Continuation of Discourses, v. 5. p. 78. 1651.

† Hist. v. 3. p. 24, 25. note.

‡ The following account of this salvo is extracted from Lane's plea for Lord Strafford, before the House of Lords (See Baker's Chronicle): First, As to the practice upon it: "According to this reservative, in the eighth year of Richard the Second one charged before the King's Bench was afterwards referred to the Parliament; and there, though the fact *was not* contained in the body of the statute, yet, because of the *proviso* before mentioned, it was adjudged treason."—In the eleventh year of the same king, the Duke of Ireland, and Nevil Archbishop of York, were impeached of high treason by Gloucester, Arundel, and Warwick; and, *notwithstanding the statute*, convicted thereof by the *salvo*: but in his twenty-first year the sentence was reversed, and those three Noblemen themselves were adjudged traitors. In the reign of his successor the repeal was repealed (1. H. 4.), and the sentence on the three latter Noblemen, in its turn, reversed. "Such were the tossings to and fro of treason; and all because of that uncertain proviso." All the confusion of the law of treason at this time appears to have arisen from its operation. I discover no vestige at this time of any new treason having been declared; nothing of the kind could be wanted for any purpose of oppression. We come now to the sentiments of our ancestors thereon, after they had, for a certain period, experienced its effect when put in force.

In the Parliament of the first year of Henry the Fourth, "a Petition was preferred by the Nobility to have treason limited within some statute, because they knew not what to speak, or what to do, for fear thereof: and in cap. 10. an Act was made upon this Petition; that the salvo should be holden repealed in all times to come."—"And it is said in the records, that there was great joy at the making of this Act, in that the drawn sword hanging over every man's head by this slender thread of a consequence or illation, was removed by that Act." We shall see afterward; contrary to what was then urged by Lane, that this salvo was re-enacted before the year

1511.

of

of Legislation ; and in the second place, that without it, even in the judgement of the authors of it, it was inadequate to the prevention of treason.

FIRST, It violates the great fundamental principles of Legislation. Titius has committed a crime ; the Act leaves it " to the determination of Parliament," whether that crime be treason or not : the treasonable nature of the act of Titius was therefore indeterminate before it was committed ; it was not determined to be such by law before the " occasion offered itself." Now I say, upon the conjoint authority of Blackstone and Montesquieu, " that if the crime of high treason be indeterminate, this alone " is sufficient to make any Government degenerate into arbitrary " power *."

THE decisions of the Legislature on the salvo, in the case of Titius, may be in two forms : First, That the act of Titius shall be judged treason in him, and in all future cases ; and, secondly, that it shall be so judged, but the judgment shall not be drawn into precedent. In proceedings of parliament upon this Act we find examples of both : the former is upon the principles of the Imperial rescripts and papal decretals ; the latter on that of the privilegia noticed in the times of the Roman Commonwealth.

Of a decision of the first kind, or a crime made treason by rescript, we have an instance in the case of one Rouse, in 1531, " who had poisoned a great pot of porridge in the Bishop of Rochester's kitchen." Poisoning was then by a statute made treason, and Rouse suffered upon it. This Act, says Burnet, " was founded on the power reserved in the 25th of Edward the Third to Parliaments to declare *in time coming* what crimes " were treason †." We see this declaratory law operated retrospectively. It is evident, that this mode of proceeding is by a law made *de post facto*.

THIS mode of proceeding was, in essence, the same as the Imperial rescript, and of the worst species. A rescript Blackstone thus describes : " When any doubt arose upon the construction " of the Roman laws, the usage was to state the case to the " Emperor in writing, and take his opinion upon it. — The " answers of the Emperor were called his rescripts †." Montesquieu, whom Blackstone here copies, adds, that " the Papal " decretals were, properly speaking, rescripts : one sees that it " is a bad sort of Legislation." The title of the chapter here quoted is, " A bad Mode of giving Laws ;" and the rescript is the sole instance he produces. Some of the better Sovereigns of the Empire thought this power too great to be exercised in a simple Monarchy. Trajan often refused to issue rescripts ; and Macrinus had resolved to abolish the whole collection of them †.

* Com. v. 4. p. 73. et Sp. L. l. 12. c. 7.

† Hist. Ref. Abridgment, p. 78.

‡ Com. v. 1. p. 58.

|| Etp. des L. l. 29. c. 17.

And, indeed, this law is the only instance in which the Legislature has shewn any disposition to copy the Imperial or Papal tyranny.

SECONDLY, But in the year 1388, which being very near the time in which the great statute of treason was made, we may expect to find in the proceedings on it a greater conformity to the meaning of the original Legislators; we find it applied in a manner still more adverse to the nature of law. The Lord Beauchamp of Holt, Sir James Berners, and John Salisbury, were, by virtue of the clause here censured, tried and condemned for high treason; and the Parliament concluded their process by a declaration, that none of the articles decided on these trials to be treason should ever afterwards be drawn into precedent by the Judges *; that is, these acts were treason in the individuals, but in no other persons. There was nothing, however, in this proceeding which was contrary to the letter of the statute.

THE limits an article of an Appendix impose upon me will not permit me to state an objection which might be, with very little propriety, urged here: objections little in real weight may require long answers: men to whom it may occur will see it is to be solved by the following principle: There are two bad states into which a mixed and good Government may degenerate, despotism and anarchy. When circumstances give us the power of guarding against either, and the necessity of using it be *extreme*, we are to use it. What is to be done, on "such never-to-be-expected occasions †," is to be sought for only in that code of moral law which is written in the bosom of the upright friend of his country. As they cannot be foreseen, the laws of the land cannot provide against them; they cannot ordain when their letter may be disobeyed; or when, for the safety of the State, measures must be taken against individuals in cases alike unforeseen, and therefore alike unprovided for. In each, by an invincible necessity, the necessity of its nature, *law must be silent*. This is simply a maxim of the great men who effected the Revolution, with its converse added.

EVERY statute which has been successively convenient for an Opposition to ground those arguments upon which they expect will operate with the most force on the populace, has successively enjoyed, for its term, the honour of being called the Palladium of British Liberty; and the pretensions of none were ever more strongly insisted upon than the statute under consideration, at the present juncture. But if we look at the conclusion of it, we may pronounce him to be a very "feeble amateur" indeed, and with no knowledge of the *costume*, who pretends that this is rightly named the Palladium. The insignia point out the error very clearly; the sword she holds in her hand is the very sword of

* Hume, v. 3. p. 23.

† Walpole at the Trial of Sacheverel.
tyranny,

tyranny, hidden almost "from hilt to point" with Imperial rescripts and Papal decretals: one might as soon call a statue with a dagger in one hand and a cup of poison in the other by the name of Hope.

TYRANNY in the principle of a law sometimes begets absolute relaxation in the administration of it; its effects in other instances may not go quite so far: the administration of it may only become mild. And this appears to have been the case with respect to the statute of treason in England: and by an error into which men very easily fall, the spirit with which the law was administered has been mistaken for the spirit of the law itself. This has been the case with the law under consideration.

But it is urged, that "it is an infringement to the liberties of the subject to increase this catalogue of treasons: and when any additions have been made to the statute of Edward the Third, in former ages, the experience of our forefathers has taught them the necessity of taking them away, and restoring its former simplicity to the law on this head." There are reasons why more and more severe and unjust laws may be expected to be found in every State under this title than under any other: but that is not the general character of the laws of treason which have been made in this country since the Revolution. Will any person contend, that the four Acts which placed the Princes of the House of Hanover upon the Throne, and secured them there, were not absolutely necessary to be made, in aid of the statute of Edward, for the preservation of their liberties? Their destruction is menaced now by a different set of enemies, described neither by these laws nor that of Edward; and further provisions against them are necessary.

II. THE authors of the statute itself declare, that it is inadequate to the prevention or punishment of many acts of treason which may be equal in criminality to those it defines. They admit, that "other like cases of treason may happen in time to come," and their inability to think of or declare them; but they promise to provide for them as they shall arise, one after another, by a series of *ex post facto* laws or judgments.

BEFORE this Act passed, the number of treasons by the common law was greatly multiplied. In seven cases it continues the cognizance of that crime to the ordinary courts, as before, and establishes a new mode of proceeding upon all others, but subversive of the very fundamental principles of Legislation ordinarily observed in the milder simple Monarchies. That great and excellent Lawyer, Sir Matthew Hale, saw clearly (what the Act itself admits) that the enumeration of treasons contained in it was not so complete as to preclude the necessity of additions to it in future: and he lays down the constitutional mode of providing for these omitted cases, as they shall arise, in the following terms: "That as the authoritative
" decision

" decision of the *casus omiffi* is reserved to the King and Parliament, the most regular way to do it is by a declarative Act *." The authors of the two Bills have, therefore, followed the authority of Sir Matthew Hale, and the precedents of those great men who seated the House of Hanover on the Throne. In what sense such an Act is to be declaratory must be explained. It is not to be understood as declarative of the meaning of the clauses of the 25th of Edward the Third defining certain treasons, but of the law with respect to the *casus omiffus*, the object of the new Act; supposed to have been left, as shown above, treason at the common law, but under particular circumstances, as triable only in Parliament. The mode of speaking Sir Matthew Hale here makes use of is founded on that legal fiction, that the common law is a code absolutely perfect; therefore " it expounds the several species of temporal offences † " perfectly; " as always intending " to conform to the perfection of reason ‡." Hence it must always intend to be co-extensive to the necessities of prevention or punishment in all possible cases of treason. But in cases of which no legal record can be found, it is of absolute necessity, that the Executive Power should not have the dangerous authority of declaring what that perfect code says; the Legislature is alone competent to do it by a declaratory Act. Hence Hale calls such an Act declaratory.

Thus the possible necessity of additions to the statute of Edward is proved by the express admission of the statute itself; the expedience of making them, by the Acts on the Hanoverian Succession, which preserved the Constitution; and that " the most regular way " has in this instance been pursued, we have the testimony of Lord Chief Justice Hale, " the most brilliant example to his own age and to posterity—of exact justice and " profound jurisprudence ||."

AFTER an act is committed, to determine whether it falls under an assigned title in the criminal laws belongs to the Executive Power: but when Parliament assumes this function, as directed by the statute of Edward, there is a union of the Legislative and Executive Powers in the same hands; which constitutes, and is the very definition of arbitrary power, however vested. We are not to define what the imperative voice of extreme necessity, that of the supreme law, the *salus populi*, may sometimes demand: the utmost efforts of human wisdom cannot annihilate this necessity perpetually; the best municipal laws diminish it the most. To leave excesses to be suppressed by the former law, when it can be effected by the latter, is to leave the fate of Society, in a certain degree, to depend on the conflict of anarchy and arbitrary power; and to define one more of the crimes leading to that necessity (the

* Bl. Com. v. 4. p. 85.

† Bl. Com. v. 1. p. 68.

‡ Ib. p. 70.

|| Burnet in Burke's Letter to a Member, &c. p. 16.

object of each of these Bills), and provide against it by an express law, is a triumph of legal government over both.

WHEN danger threatens the citadel of the Constitution from a new quarter, new works must be cast up to defend it, and their construction must vary with the mode of attack. However, the defence of the two Bills is not confined to that ground; the defences, on the quarter on which the assailants make their approach, were masked: the embrasures are now opened, and they see their danger fairly before the attack. Pursuant also to the humaner laws of war, the former charges of the guns, rusty nails, broken glass, and old iron, are drawn, and they are fairly shot.

On this occasion, I must retract what I have said in defence of a censure passed by Mr. Reeves on some modern reformers, whom he supposed to consider a good Constitution in theory as of more consequence than a good Constitution in practice, or effective liberty. It certainly ought to be mitigated, now we see that they are willing and desirous of making an unreserved sacrifice of what the theory of the Constitution has acquired, by the two laws, to obtain a little practical anarchy.

No. II.

ON THE CHARACTER OF THE AGE OF EDWARD THE THIRD.

WHEN we draw together the scattered notices which our historians have given us of the progress this nation had made in general knowledge in the age of Edward the Third, we seem to be surveying a sketch of the ideas and transactions of an enlightened period immediately preceding our own; and if they had so arranged their materials, this conclusion must have presented itself to them, and they would certainly have been able, by their researches, to have collected many more instances of a like character, to establish this observation, than can be here brought forward.

THE politics of England, with respect to foreign countries, were then the same as those systematically embraced at and since the Revolution, a triple alliance of England, Germany, and the Low Countries, against France.

THE religious principles of that period (as Hume himself admits) had very nearly anticipated those of the Reformation. Wickliffe preached its doctrines, and the laity were desirous of flinging off the Papal obedience. Edward availed himself of this revolution

revolution of opinions as far as it suited his purpose, and no further. He referred the Pope's claim of tribute to the Parliament, who supported him in withholding it, on the ground that the act of John, being without the national consent, could not change the tenure by which he held the Crown. The statute against provisors was passed in this reign; and all appeals to Rome were prohibited.

If the House of Commons had not attained its present weight in the Constitution, its privileges were extended so far that they were on the very point of establishing it. Hume calls the interposition of the Court in elections to the House the first symptom of established liberty. Every art was then used to secure to "the King's friends and men in place" seats in that Assembly. This abuse was remonstrated against, and with success *. He anticipated the practice of this age, of applying to Parliament for an approbation of measures drawing expence after them before he engaged in them, that he might thereon ground his future demands for supply †. The Commons sometimes remonstrated with Edward with severity, and they obliged him to dismiss his mistress. The Clergy, in a dispute with him, charged him with a design of introducing the practice of imposing taxes without consent of parliament ‡; that is, to subvert a Constitution already understood; he had practised it occasionally, and given his negative to an Act to punish the tax-gatherers.

In this reign likewise Parliament made retrenchments of the prerogative, and especially the giving up of the claim of purveyance, and two of the greater feudal aids; the price of a liberal supply. Edward afterward d. generously eluded his concession §. Among the grievances they remonstrated against, and kept within bounds, were the powers assumed by the Privy Council and Star Chamber, the dispensing power, monopolies, and pressing; they limited the prerogative of Parliament, and remonstrated against its abuses, and the stopping of justice by warrant ¶. And the power of issuing writs to levy ship-money was abolished in the latter end of this reign, or the beginning of the following ¶.

THE Commons in this age also understood the privileges vested in them, in consequence of their having the custody of the national purse, with accuracy, and at least in their full extent. The merchants having agreed with the King to augment the duty upon some article of export (wool I believe), were summoned before the House, and censured for breach of privilege: the only precedent which I suppose can be properly urged against the subject supplying the Crown with money voluntarily: a point tacitly given up by the Petition of Right; an article of

* Hist. v. 2. p. 413. † V. 2. p. 503. ‡ Ib. 423. § Ib. 413.
 § Ib. 506. 510. ¶ V. 6. p. 254.

which

which is, " that no man shall be *compelled* to yield any gift, loan, " or benevolence, tax or such like charge, without common " consent by act of parliament * : " which, by prohibiting compulsive levies, tacitly establishes the legality of voluntary contributions, and is in effect a regulating clause, not a prohibition.

THE hereditary claim of the Crown to some duties on exportation was already a point of discussion and jealousy to the people on the accession of Richard the Second : and in the expedient the Commons made use of to establish their rights, without detriment to the revenue, we see a refinement and dexterity which has seldom been equalled : they were ordered to cease at Midsummer, and to be renewed on the Feast of St. Peter, the interval being five days †, " for that thereby the King should be interrupted for claiming such grant as due." The same Assembly annexed a strict clause of appropriation to the supplies they granted ; and took effectual care of their observance, by appointing some of their own Members to superintend the receipt and disbursements of the sum levied ‡.

A CERTAIN modern practice, and esteemed of a more ambiguous merit, was in this age first perhaps adopted since the time of the Romans. In the reign of Edward the Third we discover the first instance of a public debt on parliamentary security : it was voted that the King should take up 20,000 sacks of wool on the credit of an aid for two years ; the value to be repaid out of the produce of that aid. The amount of the advance Mr. Hume states at 300,000l. || ; but, on the authority of an extremely well informed writer, its least value must be taken at 450,000l. §

GREAT freedom was made use of, in this period, in the debates of the Commons. Those on the subject of Alice Pierce, mentioned above, are sufficient proof of this. Edward likewise sometimes imprisoned the Speakers, *after the breaking up of a Parliament*. If our annals were complete, we should find England then possessed her Hampdens and Falklands, her Hydes and her Pym. But the great Commoners of that age could only impress upon the Constitution a quiet and progressive amelioration, not bury it under the ruins of legal prerogative : Edward the Third sat upon the Throne, not Charles the First.

THE minority of Richard the Second suggested further views to the Commons : they then first chose a Speaker ; and it is singular, that the election fell on Peter de la Marc, whom the late King had imprisoned for his speeches in a preceding Parliament. That House was the first to take up the business of the Regency,

* Bl. Com. v. 1. p. 140.

† Hume Hist. v. 3. p. 5. on wools, wool-fells, and skins.

‡ Ib. p. 4.

|| Hume, v. 2. p. 414.

§ On the qualified Exportation of Wool discussed historically, p. 9.

petitioning the Lords, that a Council of Nine might be appointed to carry on the public affairs during the King's minority; and although their interposition was in that form, they were of consequence enough to carry their point. But another extension of power which they aimed at, that all the great Officers should be appointed by Parliament during that minority, that is, that the Commons should have a negative on all such appointments, they failed in. Before this Parliament was dissolved, they affirmed the right, and the necessity, of that Assembly meeting once in each year.

CIRCUMSTANCES which happened soon after repressed the further exertions of this rising spirit of freedom in the House of Commons, which the vigour and glory of Edward the Third could not effect. The insurrection of Wat Tyler must have infused no little jealousy of popular principles into the minds of men of property of both Houses, in the same manner as we saw the insurrection of Lord George Gordon produce the defeat of some popular measures, which were carrying on, when it commenced, with great appearance of success. It was thus this salutary check upon abuses, the importance of the Lower House, losing much of its vigour, England soon came to experience all the calamities in which the contests of a disorderly, feeble, precipitate Court, and a factious Nobility, could involve a nation, terminating in a long period of degradation and misery.

A FEW miscellaneous circumstances will be here added, to shew, that this nation was, in other respects, in a very advanced state at this period. Mr. Chalmers, in his Comparative Estimate, informs us, that land at the death of Edward the Third sold for twenty-five years purchase. A scene of turbulence and revolution commenced soon after. In the reign of Henry the Fourth we see in the history of the times that it was fallen to twenty, and in that of Edward the Fourth to ten years purchase. Presently after the accession of the House of Hanover it re-attained the value it had sold for at the accession of Richard the Second. The modern maxims of commerce were then likewise understood. To rival the trade of the Netherlands, their manufacturers were invited to settle in this kingdom; the exportation of unwrought wool was prohibited, and the wearing of foreign cloths: and it was declared by law, that "trade should be free, notwithstanding grants or usages, seeing such are to the common prejudice *." Our foreign commerce, likewise, brought us in a balance of 250,000l.† a-year of the money of that time, containing the same quantity of silver as 750,000l. of our present money: which sum it did not on an average exceed in the period from the Restoration to the Revolution.

* Qual. Export. of Wool, p. 6, 7, 9.

† Biog. Brit. art. "Clarke."

THE French language was in this age prohibited in law proceedings, and the history of English literature affords a strong proof of the degree of the refinement of manners to which we had then attained. This is exhibited in the characters and some of the tales of Chaucer. Polite satire, and comic portraits, touched with a light and free pencil, can only be produced by men of genius, who live in periods very much civilized. Let the ability of the writer be what it will, the characters drawn in a semi-barbarous age have little of individual nature in them: they all have the allegorical air of moral qualities personified. Athens had acquired its highest degree of politeness when Menander wrote his comedies. France did not produce her Moliere until the age of Louis the Fourteenth; and the latter will not be found much more free from the delineation of abstract qualities instead of living characters, or from overcharged colouring, than our own countryman, the delicacy of whose hand certainly was not surpassed by that of Theophrastus or La Bruyere: and if we grant his taste outstripped that of his age more than any of those writers mentioned above, still that age in which he lived must have been highly civilized before it could produce such a writer, or feel the beauties of his comic manner. His page indeed is disgraced with some gross immoralities, but it is only to be wished that this could be urged as a proof he did not write in a polished period. The works of the Augustan age, and those written in France since the death of Louis the Thirteenth, by men who have in the same manner disgraced fine abilities and a fine taste, will not suffer this to be urged against the consequences drawn from the poetry of Chaucer.

Nor only the manner in which these characters were drawn decides upon that of the age, it may be also shewn, from the matter they contain, in that of the *Squire*, we may be supposed to have an account of the education of the young gentry of England at that period. Among his other qualifications, he made verses, was instructed in drawing and music, and (as we express ourselves) wrote a fine hand; and he had made a tour in the provinces of Flanders, then the seat of opulence. Nor is the poet here describing what, in his opinion, the education of a young gentleman ought to be, but what it was: the former is to be seen in that of his own son Lowys, who, although he did not exceed the age of ten years, had already acquired the elements of the Latin language, and made a considerable progress in arithmetic and the doctrine of proportion: he earnestly desired to be taught astronomy, and his father thought him to be so sufficiently qualified, that he complied with his request, and wrote his Treatise on the Astrolabe for his use. In his preface, he supposes his work on astronomy might be generally read.

THIS excellent direction to the national education and objects of pursuit, was most probably given to them by the writings and

recent discoveries of Roger Bacon, born not only to restore what is worth retaining of the ancient philosophy, but to lead it far on toward the perfection it has since attained. He died about thirty-five years before the accession of Edward the Third.

HISTORIANS seem tacitly to have laid it down as an hypothesis, that Society has been in a progressive state of improvement ever since the union of the Saxon kingdoms. Hence they are perpetually expressing their wonder at the repeated instances of policy and refinement occurring in the period here treated of. But our advancement was then great: it could not be called a semi-barbarous age: it can only be said of it, that it still retained traces of barbarism. It was not only the dawn of the day, or the first beams of the rising sun, which enlightened our ancestors, that luminary was already mounted many degrees above the horizon; some flying clouds, indeed, which the wind was dissipating, at intervals obscured it for a little time, or cast a dark moving tract of shadow over the landscape.

A TURBULENT and disastrous period of civil war and usurpations ensued: a short and dazzling term of military splendor, which promised to terminate, only served ultimately to increase its calamities. The acquisitions of the age of Edward the Third were lost almost as soon as made. After the civil wars were ended, the heavy domination of the Tudors long repressed the efforts of the genius of this nation, to recover that height from whence it had fallen; and thus the reign of genuine science in Europe, destined to be established by Britain, was postponed between two and three centuries by our internal commotions, begun by a general insurrection of the populace of eight counties round the capital, "on the principles of primitive equality," and directed to "the purpose of levelling all mankind."

No. III.

ON A LEADING CAUSE OF THE CIVIL WARS IN THE
REIGN OF CHARLES THE SECOND.

I DO not know that it has been observed, that a single fact accounts for the unrelenting vehemence of the illegal measures against Lord Strafford: the famous inflammatory remon-

* Hume's Hist. v. iii. p. 8.

france, the rash attempt of the King to seize the five Members, and the continuation of the attack of the Commons upon the royal power, after they had restored the Constitution.

COUNT Lally-Tolendal, in his Life of Lord Strafford, a work full of curiosity and elegance, informs us, that he had possessed himself of legal proofs of treason against the Lords Saville and Kimbolton, and Pym, Strode, and their accomplices, as having called a foreign enemy, the Scots, into England. Mr. Hume informs us, that if Lord Strafford had not been suddenly prevented by the accusation of the Commons, he had that very day, it was thought, charged Pym, Hampden, and others, with treason on that account. Now Hampden, Pym, and Strode, were three of the five Members accused by the King: the other two were Hollis and Sir Arthur Hazlerig. I lay it down as a probable supposition, that they were among *those others* not directly named by these writers.

THOUGH the thanks of the House had been given to the Scots for their brotherly assistance in marching into England, an Act of indemnity had been procured by those who invited them*; some of those even who thought the nation benefited by that measure, might dislike the precedent, and the actors therein might fear to disclose the part they had taken, so far as to solicit such a safeguard; they remained, therefore, under the penalties of the law of Treason, and thought themselves reduced to act upon that most dreadful of all maxims, *ne ferriare, feri: meurs, ou tue* †. Strafford was possessed of the fullest evidence ‡ against them, and they determined at the

* Hume, v. vi. p. 402, affirms, that an Act of oblivion had passed. The public Acts of the Long Parliament, which received the royal assent, are in number nineteen: their titles are now lying before me. There is no such Act of oblivion among them. The title of the 10th is, "An Act for Confirmation of the Treaty of Pacification between England and Scotland, with Commissions and Articles thereupon." If this Act had contained such a clause of oblivion and indemnity, it would have been recited in a title which particularizes commissions and articles. It contained, indeed, "A Provision for the Security of his Majesty's Party in Scotland, in reference to all former troubles, excluding only the Scotch Bishops and four more of that nation," Heylin's Life of Laud, p. 466. But this does not amount to an indemnity for treasons committed in England. If a law was passed for that purpose, Hume does not mention this remarkable Act in its proper place. He might be led into error by supposing the thanks of the Houses to the Scots for their brotherly assistance to be a virtual Act of oblivion for their inviters. Besides, if the King had passed an Act of indemnity, is it probable that he would have attempted to bring the five Members to a trial, who might have pleaded it, or that the Commons would not have reproached him for an attempt to violate an Act to which he had given his assent?

† Corneille, Cid.

‡ Preuves irresistibles, Count L. T. p. 337.

proper instant to anticipate his attack upon them: but this could not be done with safety to them when the person of the Earl was out of their reach. Hence it was necessary, for other causes than those commonly alledged, that their plan of a counter-accusation should be for a season unknown to him; for this reason the doors of the House were locked, at the time they thought proper that the subject of his impeachment should come on, that no intelligence of their intended measure should transpire, until it was too late for him to anticipate their accusation by his own. Thus those of the Commons who were in the secret flung their deliberations against him, rather into the form of a private consultation of conspirators, than the debates of a senate. This apprehension of their own danger led them at last to the unprecedented and double form of their proceeding against him; the parts of which were, a trial for treason, instituted in the ordinary form before the Peers, which was interrupted by the prosecutors themselves, before sentence was suffered to be given, by a new course of proceedings, a bill of attainder. What they could do consistently with their apprehensions for their own safety, to avoid this species of necessity of committing a murder, by what had so equivocal an appearance of being the sword of the law, they attempted. Count Lally, on the authority of the Journal of Archbishop Laud, informs us, that Lord Loudon and the most powerful of the Presbyterians offered to Lord Strafford his life and liberty, on condition that he should join them, and that he refused the proposition *."

It is obvious they must have conjectured, that the train of their negociations with the Scots was perfectly known to the King, though he might not be master of the legal evidence. This might confirm them in their plan of continuing their own power, by perpetuating the sitting of the Parliament after that assembly had been made triennial; that the danger might meet them combined together in perfect union with, and at the head of a great party in both Houses.

The King's journey into Scotland was a real subject of alarm to this party: they dreaded that he should be able to obtain more particular information against them; and finding that by their importunity they were not able so much as to get him to put it off, they appointed a Committee to attend upon him, under pretence of seeing the articles of pacification executed, but in reality to be spies upon his conduct †. One of the most eminent of the Members who had concurred in the invitation, was among these deputies.

* Essay Histor. p. 402.

† Hume, vol. vi. p. 359.

CHARLES, when in Scotland, by a liberal distribution of titles, and such favours as remained in his power, had attached the leading Covenanters to him for a time, and obtained their confidence. "He expostulated with some of the chief among them, touching their late coming into England in a hostile manner, and found that some, who were now leading men in the Houses of Parliament, had invited them to it," and he "furnished himself with some proofs of it *." The Committee, whom the Parliament had sent to watch his conduct in Scotland, could not be entirely ignorant of these communications, nor would they fail to signify this increase of danger to those of the two Houses who were affected by it. Thus some of the Covenanters betrayed their confederates to the King. This prepares us for what is to follow. The Earl of Lever, who had on his knees protested in the house of the Earl of Kinnoul, that he would never bear arms against the King, in a little more than two years after led for the third time a Scotch army into England. A liberal subsidy from the Parliament had again changed the inclinations of some bad men of that nation, and a second prevailed upon them to give up their Sovereign. The confidence also which Charles reposed in the discoveries he had made, which he preserved as a last resource to protect him against the machinations of his enemies in England, proved unexpectedly one of the great causes of his ruin.

THE dangerous situation of those who invited the Scots into England became daily, in their own eyes, more and more evident. When he went into Scotland, "it was voiced to all that he parted a gracious King from a contented people †." His tour into that kingdom had greatly strengthened his interests there: he was become extremely popular in this city, as was evident in his splendid reception on his return, and his party in the House of Commons was already equal, and becoming superior to theirs. The accusation against them they must have known to have been strengthened with new evidence, that the business of the Parliament would be soon finished, and that assembly of course dissolve itself, and they return into the mass of private subjects, amenable to the course of law; their fears for their safety urged them therefore to renew the attack upon the King by exciting the populace of the city afresh against him, and they hoped likewise, by a series of measures of irritation, to provoke him into some precipitate measures, that might revive those resentments against his past administration, which thinking men began to wish to be forgotten; and that by these means, in conjunction, they might so far debase his character and diminish his power, that they might have nothing to fear from his

* Heylin's Life of Laud, p. 499.

† Baker, 514.

accusations, even after the dissolution of Parliament, whenever they should permit it to take place. By a single measure they secured the first of their purposes, exciting new tumults against the King: nor could any step be more calculated to commence their system of irritation.

THIS was the voting and publishing the famous Remonstrance, addressed by the Commons to the People, against the King, containing every thing with which his whole administration had been truly or falsely accused, each particular heightened with all the arts of exaggeration. There is historical evidence, that the fears of this active party in the House for their own safety were their motives to this step, so instrumental in kindling the Civil War; for immediately after the passing of it, Cromwell told Lord Falkland, "that if the Remonstrance had not been carried, he was resolved to have converted the small remains of his estate into ready money the next day, and to have taken the first occasion of quitting the kingdom; and this, he affirmed, was the sentiment also of some of the most considerable men of the party *." Many additional insults followed the Remonstrance, before the King was provoked to what he had unfortunately confided in as a strong resource, his impotent and unfortunate attempt of seizing the five Members, to bring them to a trial for treason, while they were yet at the head of a victorious party, the House of Lords in consternation, and the irritated and licentious populace of London at their command.

It seems, therefore, highly probable, that the use intended to be made by Lord Strafford of the evidence he had procured, cost him his life; that the fear of its effects likewise produced the Remonstrance, and the further unconstitutional attempts upon the royal power which followed it; for, after the sanguinary example those who had joined in the invitation of the Scots had exhibited in the case of Lord Strafford, that they might not suffer for what was treason by law, they were compelled to become in reality traitors†. The expectation likewise which the King founded upon the same testimonies, betrayed him into the fatal error of attempting to seize the five Members, which ultimately cost him his crown and life.

YET there was every thing to fear for our liberties at the time the Scotch insurrection began, the actual possession of them was almost totally to be regained. At the accession of Charles, a good deal of the canker of a dangerous prerogative crusted over many a tooth of some of the main wheels of the Constitu-

* Biog. Brit. Cromwell, v. iv. 479. from Clarendon.

† They took arms against the King to wrest the militia from him. This would have destroyed the Constitution then existing: but this Constitution was, in principle and powers, much more popular than that designed by the Bill of Rights, as will be particularly shewn in the next article.

tion. We know that a little oil, dexterously poured in, would at that time have kept the whole in constant motion, the wheels might even thus have scoured themselves bright, and the machine have gone very well. It was not applied, and they became absolutely clogged with rust. Two of the constituent parts of the Legislature seemed to have lost the exercise of their proper functions *. After these obstructions were removed, the dignity of the letter of the law should have been preserved by an act of indemnity, a reparation always due to it when absolute necessity demands a temporary veil to be flung over it; a conciliating liberality †, to obviate the more urgent necessities of the Crown, would have been patriotism; and the very powerful leaders of

* From the time of the invitation of the Scotch to enter into England in 1639, to the time the bill for the militia was brought forward, a complete revolution in the Constitution of our government had taken place. It may be of use to compare it with that of 1688, as to its necessity, the means by which it was effected, and its magnitude. The measure of the necessity of each seems equal or nearly so. Charles endeavoured to rule without Parliaments. Some foreign sovereigns had succeeded in annihilating similar assemblies, by bringing them into disuse. James copied in part the policy of Augustus to enslave the Romans, veiling absolute power under old names revered in times of liberty. He did not attempt to annihilate Parliament, indeed, but he endeavoured to get into his hands the effective nomination of four hundred and twenty-one members * of the House of Commons; to destroy the essence, while he kept up the appearance and forms, of the popular branch of the Constitution. I shall now give a brief view of the means by which these two Revolutions were effected. The authors of the Revolution of 1688 invited a foreign army to their assistance; of a Protestant nation, the natural and old allies of the kingdom, under the husband of a princess claiming to be presumptive heiress of the Crown. The necessity fully justified this measure; but under these circumstances it appears stronger than the invitation to the Scots in 1639; for, though their army may be regarded as foreign, they were subjects to the same King, not to insist on another point of difference; it appears therefore that in this respect the calling in of the Scots upon the existing necessity was likewise fully justified, and moreover by that of the subsequent invitation of the Prince of Orange. The magnitude of the two Revolutions are compared in the next article, wherein it is shewn, that before the claim of the militia in 1641, the Constitution had been rendered in principle and effect more popular than by the Bill of Rights; it was therefore not more constitutional at that period in the Parliament to take arms, still further to increase the popular power in the Constitution, than it would have been, immediately after the passing of the Bill of Rights, for the party who invited over the Prince of Orange to have involved the nation in a civil war, to have reduced the kingly power of William to much narrower limits than those defined by that great declarative law.

† Pym saw the expedience of this. He had been made Chancellor of the Exchequer, and declared that he had found effective ways and means to make a considerable augmentation to the revenue of the Crown; but the price he set upon his service was the head of Strafford. *Vide St. Comptes L. T. 355.*

* Defence of the Letter attributed to Mr. Reeves, p. 72.

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the House, by falling upon such a system, would have deserved, and might have obtained, a cordial oblivion, and even the affections of the Sovereign, and the gratitude of the people, and the island might now be able to boast that it had enjoyed a firm, regular and free government of a century and a half instead of a century; but an avarice, which had the appearance of want of good faith, disgraced the spirit of liberty in the beginning of the reign of Charles, and ultimately almost annihilated liberty itself, while it defeated its own impolitic ends by the immense expence of the Civil Wars, of which it was the primary cause, all the other calamities being set out of the question. The plan of rendering the Executive Power duly analogous to the principles of the Constitution, and the means by which it was pursued, then had an unnecessary difference of character. The acrimony of Parliament, which Charles perhaps considered alternately with something of fear and more of indignation, and the love of prerogative, made him desire to raise himself above the legal Constitution: he seemed for a long time to have succeeded; an adequate reparation had been obtained; but he fell, and the Constitution fell with him.

No. IV.

A VINDICATION OF THE PRINCIPLES OF THE ASSOCIATION OF THE ROYALISTS IN THE CIVIL WARS.

IT is certain that there were great changes wanted in government when the Parliament of 1640 met; the point to be enquired into therefore is, Whether the amount of the acquisitions made by the popular part thereof were not such, before the King set up his standard, and the Royalists pledged themselves to him in the defence of his remaining prerogatives, that nothing farther was requisite, unattainable in the ordinary course of legislation without civil war. It is contended here, that the King's concessions had effectively formed a new constitution of government, although no experiment was suffered to be made of it: which Constitution was at least as popular as was necessary, to the enjoyment of the freedom compatible with a mixed monarchy.

It may be said, ' that this question is of the nature of those ' concerning the degree in which a certain quality is found resident ' in its subject; which, as it is capable of infinite variations, cannot be defined by language, although it may be the object of ' perception,

perception ; much less can we determine and describe with precision, that very degree of any quality which carries its subject to the highest perfection of its nature, as far as it depends thereon, or to an assigned point towards it : in short, that the question here proposed is incapable of any accurate decision, as all that can be urged on either side must be drawn from general topics of declamation, and what they can furnish upon this head was exhausted at the time the Civil Wars were a recent subject.

BUT no age is perhaps competent to decide on all the doubtful but important points which may arise in it. Even the experience of facts to take place in the course of the next century, if we were masters of it, might give us certainty now in many points, in which we lose ourselves in vague declamation, and the lapse of time has enabled us to discuss this question upon adequate experience.

WHEN a Constitution has been tried for a century, and we find by the experience of the whole term that it contains the popular principle in a due proportion, we have therein a fixed standard to judge another Constitution by ; and if we find the fundamental principles of the latter more popular than those of the former, we are intitled to pronounce, that upon trial, it would have been found at least fully adequate to support the freedom of the people.

Now on this subject we possess such a standard of comparison. We find it in that great declaratory Act, the Bill of Rights, which perpetuated to the popular part of the constitution of government, the possession of every right requisite for the enjoyment of true liberty, or asserted such powers to belong thereunto, that whatever farther was wanted was easily acquired in the regular and ordinary course of legislation : a bill, by the operation of which the proportion of the two rival powers, the monarchical and the popular, has become so nicely adjusted, that they have been preserved ever since in an equilibrio so nice, that the finest index has, in very few instances, been able to point out the slightest vibration in the balance, much less has it been subject to those violent and alternate exaltations and depressions of prerogative and privilege, which in the last century so often threatened to upset it.

IF, therefore, it can be shewn, that the popular part of the Constitution was stronger, after the concessions of Charles, and before the last demands were made upon him, which were resisted by arms, than the authors of the Bill of Rights chose to render it ; then the Royalists, who pledged themselves to the maintenance of all the laws and constitutions already passed in that Parliament, and the defence of the royal power so limited, did not endeavour to put a stop to the acquisitions of the popular branch

branch of the Constitution prematurely, or before it had attained a due degree of strength.

We are now to go into a comparison of the acquisitions of the Parliament of 1640, before the demand of the militia, and some particulars of the Bill of Rights. And first with respect to the constituent branches of the Legislature. The Bishops' votes had been abolished by Act of Parliament, whereby the influence of the Crown in the Upper House had been much weakened: the Bill of Rights tacitly admits them. The meetings of Parliament had been made triennial in 1640: by the Bill of Rights it is only enacted, that Parliaments should be frequently held. It was only by a subsequent statute, passed in the 6th year of the reign of William, "that this indefinite frequency was again reduced to a certainty *." And among the Acts of Parliament of Charles, to the support of which the Royalists had pledged themselves, was that which ordained that the Parliament then sitting should not be prorogued or dissolved but by its own consent. Hence the King's power in the legislature was left much stronger by the Bill of Rights than by the Acts of 1640; and the authors of that Bill declined to prescribe those limitations of kingly power in this respect, which the Royalists engaged themselves to support.

THE remaining heads of this comparison will relate to the executive power of the Crown, judicial and military: and first, as to the independence of the courts of law on the personal will of the Sovereign. At the request of his Parliament, Charles had called in all the Judges' patents, and issued to them new ones "during good behaviour." His two successors restored the old form in these instruments: the Judges again held their offices "during their good pleasure;" and the Bill of Rights made no alteration therein. The form adapted by Charles the First on the application of his Parliament, was afterwards restored by 13 Will. III. c. 2. The Royalists therefore had admitted stronger limitations on the King in his judicial capacity, than those great men who effected the Revolution chose to impose upon him.

It remains to examine, how the King's military powers were left standing upon both these grounds. By the Bill of Rights, to keep up a standing army in time of peace, without the consent of Parliament, was declared to be illegal; but before the rupture, the Long Parliament had established a precedent, which went much farther. The King offered to raise ten thousand volunteers for the service of the Irish wars: the Commons put a negative upon this, and to the right of the Parliament to a negative in this point he tacitly submitted, by assenting to a Bill to

* Black. Com. v. i. p. 153.

raise men upon the authority of that assembly; and by this Act, the pressing of men by royal warrant was declared to be illegal. The practice was afterwards revived, and by the Bill of Rights no provision was made against it: so much less were the limitations of the Crown declared by that Act, than those the associated Royalists engaged to maintain the observance of; they therefore agreed to support the national liberties in greater strength than the authors of the Bill of Rights thought proper to declare for. The merits of these excellent men stand between the Royalists and all censure, and that Act itself is a redoubt, which must be levelled to the ground before their assailants can march forward to attack the principles of their Association. It is a work they must not leave behind them.

An objection may be made to this, * that the feudal tenures were not abolished, nor the Habeas Corpus passed, until the Restoration. To this it is answered, that they might both have been obtained without a civil war, either by compact or the ordinary course of legislation. It is true, the revenue from the wards of the Crown, and some other feudal incidents, remained. These were compounded for soon after the Restoration, and Charles and the Royalists would have willingly concurred in their abolition on the same terms; for the first proposition on this account came from the Crown to the Parliament in the reign of James the First, who offered to give them up for an adequate tax on the lands out of which such contingent payments issued. Charles the First would, without doubt, have exchanged them for the hereditary excise, and the additional recompence afterwards obtained for them by his son; and his party certainly would not have engaged in the dangers of a Civil War to avoid expropriating their estates of those payments on the like advantageous terms to themselves.

It is to be remarked also, that in the Parliament of 1640, an Act had already passed, "That if any person be restrained of his liberty by any illegal court, or by command of the King's Majesty in person, or by warrant of the council-board, or of any of the Privy Council *," he should be entitled to a writ of Habeas Corpus. From the temper of the times in which this Act was obtained, it certainly went as far as the experience of the past, or the foresight of the future grievances of arbitrary imprisonment could then extend, and it is not credible that the improvements afterward ingrafted upon it existed even in contemplation.

THE statute called by way of eminence the Habeas Corpus Act, passed in the reign of Charles the Second. It points out

* *laek. Com. v. i. p. 135.*

the means of obtaining this writ more clearly, and enforces them more strongly ; but the weaknesses of the provisions of the former were certainly unknown in 1640, as no experience could have been had of them between the time of this Act passing, and the breaking out of the Civil War. But if they had then been suspected, it is easy to prove they would have been provided for with facility ; for the Parliament had fallen upon the practice of granting the tonnage and poundage from time to time, and for terms of a few months only. A more permanent settlement of it would, in his own esteem, have been a very liberal price, for adding to the Habeas Corpus Act he had already granted what was wanted to give full effect to the spirit of it ; which is proved from this circumstance : Charles the Second passed this Act long after this revenue was settled on him for life, without obtaining any supply to the necessities in which he was then involved.

A FURTHER confirmation of the facility with which these salutary Acts might have been obtained, appears in the historians of this period. They inform us, that before any signal reverse of fortune checked the progress of the arms of Charles, he appears to have been prepared to have made any concession of this kind that might have been judged necessary. These sentiments he declared in a manner which shews beside that they had the concurrence of his party ; for about the end of December 1643, in his summons to the Oxford Parliament, he expresses his desire that " his subjects should be confirmed in those rights which he had granted them in Parliament, and his readiness to add such new *graces* as he should find would most conduce to their happiness *." These are very large concessions to have obtained these laws ; the Royalists would have thought the purchase high enough : and so far forth as the liberties of the people and the crown revenues are concerned in such a compact, they would have stood exactly on the same footing as they did in the reign of William, after the Revolution was duly consolidated.

BUT no doubt can be entertained that the Parliament of Charles the First would have attained these points in the ordinary and legislative course of proceeding. The King and the Royalists had given a firm engagement, that that assembly should retain all its new-acquired powers. At the Restoration they ceased to possess them, yet the popular constituent part of the Legislature, thus weakened, was able to obtain them ; if, therefore, the assembly at Westminster, giving up all their last demands upon the King, had concurred with the Royalists upon the terms of their declaration, they would have been able to have given to England a Constitution at least as free as is consistent with limited monarchy, or has ever been possessed in this country ; and a system of laws,

* Neale's History of Puritans, v. iii. p. 106. from Grey's Examination, p. 119.

imposing a few restraints upon personal property or freedom, as a well-governed State can possess.

No. V.

ON THE CONDUCT OF OLIVER CROMWELL, FROM THE SIEGE OF EXETER, TO HIS JUNCTION WITH THE REPUBLICANS.

THE personal history of Cromwell from the time in which he rose into conspicuous eminence, is a legitimate part of the history of the nation, great national events having had as full a dependence on his measures and plans as they ordinarily have upon those of lawful princes. I shall here state his conduct in this period, in order to confirm the general delineation of it given in the preceding Tract, with somewhat of that particularity and distinctness which its importance requires.

THERE can be nothing more useful at present than the consideration of his transactions at that period. It exhibits one consequence of the interposition of the lower classes of the people in the transactions of Government; the degradation of society into that melancholy state in which it resembles the serpent called *Amphisbæna*: a production of the imagination of the painter or the poet, whose tail is frequently hurried away with an irresistible propensity to take the lead of its head. This despotic empire of the little-over the great, so often established when the spirit of commotion has been for any period diffused among the common people, was never more fully displayed than when the intriguing and determined genius of Cromwell was forced to bow down to it.

So early as the siege of Exeter, in the beginning of the year 1646, he had been looking out for a negociation with the King, on the footing of restoring him "to his just and ancient rights." The reasons he alledged for this to Sir John Barkley are unanswerably just; yet mark the depth and ambition of the man*. After the King was delivered up by the Scots to the Parliament, he was in such close custody †, that it was impossible for Cromwell to continue his negotiations with him. By his intrigues, a military parliament was formed in the camp, the regiments choosing representatives called Agitators, and the superior officers forming an upper assembly ‡. This military council dispatched Joyce to

* Ludlow, v. i. p. 196. from the MSS. of Sir J. B.

† Hume, v. vii. p. 82.

‡ Ibid. p. 89.

bring the King to the Army *. Of the attachment of the Agitators to Charles, at that time, no doubt is to be entertained. Sir John Barkley, who treated with them on his part, gives abundant testimony to it †; and this is further confirmed by their letter to Parliament about a month after the King's removal among them, by which "they avowed the King's cause to be theirs, and that no settlement could be hoped for without granting him his just rights ‡." In procuring this declaration, Cromwell was very active §: his professions of attachment to the King, as well as to his own relations ||, as to the friends of that Prince, were full of warmth ¶. The offers to himself and his son-in-law, were such, as make it impossible to doubt of his sincerity at that time**.

BUT this state of affairs very soon changed: the King's most confidential agent, Mr. Ashburnham, declined all communication with the Agitators; although their Leaders had promised, if it should become necessary, to act for the King against Cromwell ††; and he treated them with avowed contempt ‡‡. It was at this juncture that the principles of the Levellers; which before had infected some parts of the Army, began to manifest themselves in the deliberations of this military representative. They disclaimed all further connection with the King; or with monarchy itself; declared for a Republic, and wore badges of distinction in their hats. This produced a mutiny in the army, and with great hazard the mutineers were quelled by Cromwell; but in the event he found that they were for the present overawed, but not subdued; that two-thirds of the army had pledged themselves to the support of these principles, and "the destruction of those who should oppose them ||||." He immediately determined to give way to a torrent he was unable to stem. The party he made his

* Hume, v. vii. p. 90. I consider this expedition of Joyce's as partaking more of the nature of a rescue than an imprisonment, yet not completely such. The King actually refused to be conducted by Fairfax to his former quarters. The views of Joyce probably varied perpetually with those of his employers, who though intent, at this instant, upon restoring the King, were afterwards the persons who procured his death. But if Joyce had been constant in his enmity to him, their intentions could not have been more impenetrably veiled than by employing him in this service.

† Ludlow's Memoirs, v. i. p. 200.

‡ Whitlock's Memoirs; p. 259. Biog. Brit. Cromwell; p. 489.

§ Colonel John Cromwell, in the Dutch service. Biog. Brit. Cromw. Note S.

¶ Ludlow, v. i. p. 139.

** Hume, v. vii. p. 101.

†† "The gregarious soldiers and gross of the army is well affected to him, though some of the chiefest commanders he still avers." Howel's Letters, ii. Letter I. Date, January 20; 1646.

‡‡ Ludlow, v. i. p. 203.

|||| Ibid. i. v. i. p. 228.

peace with was that most opposite to the King. Thus Cromwell himself was forced from a plan of future greatness, which he had been two years bringing to maturity, and, for a time, sunk into an instrument in the hands of a military mob. To the faction he made his apology, by acknowledging, "that the glory of the world had so dazzled his eyes, that he could not discern clearly the great works that the Lord was doing *." And to the King's friends he alledged, that "it was the act of the Army, and not his own †;" that "he would serve the King as long as he could do it without his own ruin; but desired that it might not be expected that he should perish for his sake ‡."

I HAVE traced this event with some minuteness, as it abounds with curious information on the nature and irresistible impulse of popular commotions. We see a military Convention, for a time, rule the State; and soldiers were then the only Citizens. If this situation of things had continued, and there then existed an external force capable of bringing it to an end, the Government of England would have had no remote resemblance to that of Egypt under the Mamalucs. We here see likewise the mutability and dangers of spurious representations, chosen from the lower classes of the people: as we find the same individuals offering to compel their superiors to restore the King at one period, and in a very few months after actually compelling them to put an end to his life and the Monarchy. And the failure of Cromwell in his original aim amounts to a proof that it is impossible, in the present state of society, for any one, let his natural greatness be what it may, to conduct any change of government, by the means of popular commotions, to any end by him foreseen and predetermined. He was able, indeed, to attain afterwards an elevation and greatness he had probably then never contemplated; but, like Cæsar, he had always the danger of assassination before him; and his apprehensions of it shew that he had not, in this respect, the courage of the Roman.

No. VI.

ON THE CORRESPONDENCE OF THE ORDER OF THE SUCCESSION
ESTABLISHED AT THE REVOLUTION, WITH THE PRINCIPLE
OF THE HEREDITARY SUCCESSION OF THE CROWN.

THE Managers of the House of Commons, at the trial of Dr. Sacheverel, contended, that by the Revolution the religion, the

* Ludlow, v. 1. p. 229. † Life of O. C. p. 104. ‡ Ludlow, v. 1. p. 230.
S liberties,

liberties, and the * Monarchy of England had been preserved. It appears therefore to have been their opinion, that the measures relating to filling the Throne, and to the order of succession then established, were necessary to the preservation of the Monarchy ; or, that the persons by whom they were effected acted on the principles of a Defensive Association, on which I have treated in the body of this Tract ; nor was there any thing in them adverse to the hereditary descent of the Crown ; for if at that great crisis the Monarchy had fallen (and they were all required to preserve it), the hereditary succession must have been totally lost. Nor are a series of acts to be held inimical to a principle, or urged as a precedent or set of precedents against it, which approximate to its effects, as nearly as possible, in the existing circumstances of things, or admit only the least possible deviation from it.

THE steps taken at the Revolution to regulate the Succession were the following : first, The declaration of the abdication, and the consequent vacancy of the Throne ; secondly, The limitation of the Crown to Protestants ; thirdly, The placing William on the Throne with Mary ; and fourthly, Vesting the royal power in him for life, in case he survived her. The necessity of each of these for the preservation of the Monarchy from a very apparent danger then threatening it is to be shewn in order.

FIRST, Men's minds were wrought up to an extraordinary pitch at the time of the Revolution, on the subject of the danger of the Protestant religion. The most visionary fears of an attempt to introduce Popery had always been able to inflame the people to the utmost. That danger then existed, perhaps for the first time, since the reign of Elizabeth, was real and evident. The controversy which had been carried on against the Roman Church, EXCLUSIVELY by the Clergy of the Establishment, with a degree of system, of acuteness, and of eloquence, with which it never had been attacked before, by exhibiting its errors in such strong and multiplied points of view, had excited the minds of the people with new zeal against the errors of the Romish Church, and given, collaterally, no small degree of weight to the popular apprehensions of this danger, by that natural operation by which our aversion to an object increases our fear of it. Hence while a Prince of the Papal Communion sat upon the Throne the Republicans would have been aided in pulling it down, almost by the whole popular force. The abdication of James, therefore, preserved the Monarchy from the apparent danger of an almost immediate subversion.

* " In both these great events, the Restoration and Revolution (says Sir Joseph Jekyll), were the *regal power* and the rights of the people recovered." (Trial]. James, by substituting a power not regal but despotic, in the place of regal power, suspended its present, and endangered its future existence.

SECONDLY,

SECONDLY, It had also become necessary to quiet the alarms of the people, on account of the future dangers of religion, in order to deprive the Republican party entirely of this formidable engine. On this ground, the limitation of the Crown to Protestants became necessary for perpetuating Kingly Government.

THIRDLY, Other dangers likewise, from the same quarter, were sufficient to induce the nation to place William upon the Throne, together with Mary; for a popular revolution always diminishes the spirit of subordination; and Government ought always, after such a shock, to be put in the strongest state its Constitution permits, to guard against all further change. And in this case, as the necessity of having placed the sceptre in William's hand was clearly demonstrated by the event, it must be taken to have been apparent at the time; for in little more than a year there appeared a necessity that his whole political vigour should be armed with the whole kingly power to defeat the attempts of the Republicans in the Commons * to undermine the constitutional powers of the Crown.

FOURTHLY, Thus it was evidently requisite, that during the joint lives of William and Mary the former should be invested with the whole royal power. It is now to be shewn, that there was a very probable necessity to induce the Convention to leave the kingly power to William for life. A strong case in point plainly indicated that necessity.

In the reign of Henry of Castile, Ferdinand, then Prince of Arragon, had married the King's sister Isabella without his consent. During his reign he regarded his brother-in-law as secretly plotting to deprive him of his Throne. His Queen had brought him a daughter, whose name was Joanna, to whom a large party of his subjects believed his favourite, Count Bertran de la Cueva, to have been the real father †: and King Henry, who was supposed incapable of begetting children, was accused of having encouraged the adultery of his wife, in order to impose a spurious successor upon his people.

On the death of Henry, a large party declared for the Princess Isabella his sister, who after a short contest was established on the Throne. Many of the Nobility were desirous of vesting the sole administration of the kingdom in the Queen; others for allowing to King Ferdinand, her husband, an extremely limited and subordinate share therein: thus Ferdinand and Isabella were in the same circumstances as William and Mary about a century after; the

* The spirit of certain measures pursued by the majority of the Commons in the first Parliament of William and Mary has been explained in the Defence of the Letter attributed to Mr. Reeves, p. 72. note.

† Guicciardini mentions her only by the name of a Bertramiglia; a name, I suppose, of contempt, given her by the party of Ferdinand in Spain, and derived from that of her putative father.

title of Joanna, the supposed daughter of Henry, being still preferred by many of their subjects, and recognized also by the neighbouring King of Portugal. The similarity of their conduct was as perfect as that of their situations: Ferdinand, in this prospect of being disappointed in an object with which his ambition had long flattered him, entertained thoughts of returning to his own dominions, rather than be a Sovereign in name only in the now opulent kingdom of Castile. But Isabella discouraged the party which was desirous of limiting his powers; and her efforts in his favour prevailed: he was admitted to the exercise of the sovereignty jointly and equally with her.

Two other circumstances added to this similitude of the situations of the joint Sovereigns of Castile and of Britain at these respective periods. In the former kingdom, "in alm st all the cities there were factions that kept up a kind of civil war among themselves, without paying any respect to the laws, or regard to the royal authority *." The latter had recently been involved in the most dangerous internal commotions, in which the spirit of Republicanism, triumphant a few years before, seemed to revive; and these had been rather imperfectly smothered than suppressed. For so violent were the tumults of the Petitioners and Abhorers in 1680, that nothing which preceded the Civil Wars (according to the testimony of a cotemporary observer †) more strongly presaged such a calamity. They continued to the dissolution of the Parliament at Oxford. After that period, indeed, a remission of the fever of the national spirit took place; but so little resembling a termination of it, that the probability of its breaking out again with additional violence was apparent. In the natural constitution, particular disorders are seen to degenerate into others of a different and far more dangerous character: and in Spain the simple spirit of sedition (for nothing appeared further at the first) became converted afterwards into that of a turbulent democracy; but in England, a large portion of the latter had all along been discernibly mixed with the other causes of dissention peculiar to the times. The danger of England, therefore, from the principles of democracy, was greater at the Revolution than that of Castile at the accession of Ferdinand, if we had copied the errors of the latter kingdom.

THE situation of the new Sovereigns of the two States, with respect to the national churches, were also nearly the same. The Primate of Spain, the Archbishop of Toledo, had been very active in the party of Isabella and Ferdinand, but ultimately espoused that of Joanna. The Archbishop of Canterbury had zealously opposed the usurpation of James: the event of that opposition seems even to have finished the alienation of the army and the nation from him, and raised that spirit to its ultimate height which produced

* Univ. Hist. v. 17. p. 270.

† Coke's Detention.

the Revolution; but he opposed the accession of William and Mary. Isabella, desirous of conciliating the Bishop of Toledo to her interest, set out herself to make him a visit at Alcala. He sent her word, that "if she entered the town at one gate he would go out at the other *." When Queen Mary, on her arrival in England, sent to Archbishop Sancroft to request his blessing, his answer was, that "she should ask her father's first †."

SUCH were the corresponding situations of persons and circumstances in the two kingdoms in these periods: in the first of which Ferdinand became King in Castile during the life of Isabella; they ruled with one title and one power; their names appeared alike to all acts; they received or dispatched Ambassadors, raised armies, and conducted their wars with the same authority ‡. Ferdinand was therefore only joined in the administration and title with Isabella; the former was exclusively vested in William. At the death of Mary, William would therefore have had some advantages in an attempt to retain his administration, if it had been made terminable with her life, which Ferdinand did not possess. He was loth to retire to his kingdom of Arragon, small in comparison of that of Castile, and where the royal power was extremely more limited by its constitutions and customs §. There was the same hazard that William would, with equal reluctance, have descended from the Throne of Great Britain to retire into Holland, where his power as Stadtholder had begun to totter & before he had acquired a Crown.

IN the calamities this arrangement of power at the accession of Ferdinand and Isabella brought in the event upon Castile and all Spain, and the others with which it was threatened, but from which it was providentially delivered, we shall see a necessity able to have induced our ancestors to continue William upon the Throne for life. On the arrival of Philip, the husband of Joanna, daughter of Isabella and Ferdinand, who succeeded to the Throne in her own right on the death of her mother, Ferdinand endeavoured in vain to maintain himself in the administration which he had assumed. He was deprived of it by a very sudden Revolution; but had the address to stipulate for himself such terms as must have impoverished the kingdom. He soon recovered it by two events equivalent to another. When he was restored, the strength of Government was not restored with him: the long delay he affectedly made before his return; the factions occasioned by the pretensions of his competitor; the absence of his successor at the time of his death; continued further to enfeeble it: a little after which, a faction of Levellers arose; the commonalty attacked the Nobility and Gentry, and, for a while, were nearly masters of the king-

* Univ. Hist. v. 17. p. 270.

† Dalrymple, p. 2. 61.

‡ Guicciardini Venet. 1568, p. 170 a.

§ 1b.

§ Univ. Hist. v. 27. p. 321. l. 1. p. 343. l. 10.

doms of Castile, Valentia, and Majorca. They trampled underfoot the authority of the King, "and were governed by the basest of the people: as Bodadilla, a cloth-worker, at Medina del Campo; Villeria, a skinner, in Salamanca." This is copied by Foulis from Sandoval. He afterwards continues, "What prosperity could they expect from their juntas, when in the great Assembly none durst speak but such as one Pinelles, a cloth-worker, was pleased to order, by pointing to them with the rod of a usurped authority *." The object of the insurgents was to massacre the gentry, and to plunder all parties indiscriminately †. This democratic insurrection received also the honours

* History of Plots, p. 129.

† This rebellion commenced when Charles of Spain, who became Emperor of Germany under the name of Charles the Fifth, came to the Throne. And there is much apparent connection, both in time and principle, between this and an insurrection which broke out in his Imperial dominions; that of the Anabaptists, which desolated several parts of Germany from 1524 to 1536, in which year Munster was reduced.

Some particulars relating to this insurrection of the Anabaptists are connected with the subject of this Tract; and I shall give them here, having omitted them in their proper place. Luther wrote his book *De Libertate Christiana* (On the Liberty of a Christian) in 1520. In this work, in a rhetorical flight which might have been very well spared, he lays it down as a proposition, that "a Christian man is master of everything, and is subject to no one." (Bayle, art. "Anabaptists."): The utmost fault of this perhaps is, that he attempts to give a false elevation to the character of Christianity, by one of the *ambitiosa ornamenta*, the high-sounding principles of the Stoics, without sufficiently limiting his meaning. The insurrection in the Emperor's dominions in Spain must have excited much ferment in the spirits of the lower order of men in Germany. This facilitated the reception of the interpretation Muncer and his associates gave to this proposition of Luther. When these incendiaries founded upon it the unqualified rights of the Equality of Man, Luther acted against them with singular zeal. The confusions raised by the Anabaptists in the Empire are entirely ascribed by the Romanists to the fermentation of the minds of the people of the lower orders in Germany occasioned by the Reformation. It is much more properly to be called a disease of the times, as it broke forth first in a country where the faith of the Roman Church had not been attacked, and was excited there by the preaching Friars and Monks. Howell, Hist. Lewis XIII. p. 128). Everything shews us the migrating nature of these principles. After having made their first appearance in Spain in 1519, their second in Germany in 1524, and been subdued there in 1536, they re-appeared in England in 1549, in the reign of Edward the Sixth. Good seldom comes unmixed. With the truths of the Reformation we were so unfortunate as to import some of the political fanaticism of Muncer, Storch, and Stubner. This likewise furnishes another instance, in addition to the insurrection under Wat Tyler, that it is the nature of this contagion, when it is brought out of one country into another, to lie dormant for some years before it breaks out; the eruption has always been unprovided for and unexpected. Hence, in all instances of this kind, we see the necessity of a long continued vigilance against it. In the last section but one of the Essay, mention has been made of the commotions

honours of consecration, like many others. History has preserved to us the formulary which was made use of on this occasion by a Priest of Biscay, which I transcribe: " My brethren, I recommend to you one *Pater* and one *Ave Maria* for the holy sedition and popular commotion, that it may never cease †." It continued from 1519 to 1521.

Thus the existence of Monarchy was hazarded in Spain by the jealousy of the Castilians, who, when they consented to place an effective sceptre in the hand of Ferdinand, made the duration of his reign dependent on the life of his wife. By the contests for the supreme power consequent thereupon, the effective inter-regnums, and feeble disputed administrations, the spirit of sedition existing at his accession ultimately became heightened into that of a turbulent democracy. With a liberal policy, and in effect more favourable to Monarchy, our ancestors conferred the Crown on William for life. Republicanism had been subdued in England

commotions which broke out in England in 1549: their origin ought to have been traced back to the Continent.

Notwithstanding the length this note has run to, I must make the following addition to it. In the second Article of the Appendix it is observed, that the insurrection under Wat Tyler in England, in imitation of that of the Jacquerie in France, prolonged the semi-barbarism of Europe between two and three centuries. And in like manner, the principal cause which hindered the Reformation being universal in Christendom, involved its professors in so many persecutions, and caused so many religious wars, appears to have been the fanaticism of Equality which disgraced it almost at its first appearance in Germany. " Nothing," says Guicciardini, " has so much restrained its course as the discovery that the followers of this doctrine were not less hostile to the power of Princes than to the authority of the Roman Pontiff: by which it has happened, that many Princes have been induced by their interest to prohibit the entrance of this contagion into their kingdoms with vigilance and severity." Lib. 13. p. 380. This historian died in the spring of the year in which Calvin was established in Geneva. This jealousy of which he makes mention must have arisen solely from the commotions of the Anabaptists in Germany; as those of France, the Low Countries, and Scotland, did not take place until about twenty years after his death.

† Bayle, art. Padilla, remark E. The accuracy of this formulary may be depended upon; he informs us, it is translated " word for word." The Bishop of Zamora also declared *their cause to be just and their pretensions holy*. Ib. rem. C.

The rebels in Valentia were " resolved to destroy all the Gentry; which occasioned a hat-maker's wife, in St. Catherine's street, in the same city, seeing some gentlemen go by, to shew them to her children; and they asking the reason, she replied, Because when you come to be men, you may say that you have seen gentlemen." (*Los Cavaleros*, Cavaliers.) We see this term had been applied to mark out the objects of popular outrage before 1641. Foulis, p. 130. from Sandoval, l. 6. s. 20. Of the indiscriminate plunder we have a proof from a discourse of the Biscayan Priest mentioned above to his parishioners: he altered his sentiments of the holiness of the sedition after a visit from the insurgents. Brantome, Bayle, and Foulis, have each quoted it at length from Sandoval.

but

but twenty-eight years before ; a term relatively recent : and its principles, so far from being on the decrease during that period, had, in the latter years of Charles and in the whole reign of his successor, received new vigour and extension. In such circumstances, to have followed the ominous example of Castile must have been to subvert, not to support, the monarchical part of the Constitution.

I REPEAT here what is laid down at the beginning of this article, that the Revolution was justified by a threefold necessity : That of the preservation of our religion ; and that " of recovering " the regal power, and the rights of the people *." It is the measures pursued for the second purpose which are here exclusively considered. The necessity then existing of a Revolution to recover the rights of the people is a different subject, and to be proved from different topics. What I had thought necessary to say on that branch of this compound subject † is contained in my Defence of the Letter attributed to Mr. Reeves.

* Sir Joseph Jekyll:

† P. 71, 72, 73, 74.

THE END.

